

**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION MINUTES
January 10, 2001**

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

OATH OF OFFICE FOR NEW COMMISSIONER

City Clerk Gail Blalock administered the oath of office to new Planning Commissioner Alex Galang.

ROLL CALL

Present: Hay, Nitafan, Lalwani, Galang, Sandhu, Chua, Williams

Absent:

Staff: Burkey, Ramsay, Fujimoto, Faubion, Whales, Guido,
Nishisaka

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, commented that stores are illegally using cargo containers for storage, specifically at Parktown Center.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of December 13, 2001.

Vice Chair NitaFan corrected his statement on page 2, paragraph 2 to include that the honoring of the Citizen of the year took place on March 17, 2000.

Motion to approve the minutes of December 13, 2001 as amended.

M/S: Deepka/Chua

AYES: 6 (Hay, NitaFan, Chua, Sandhu, Lalwani, Williams)

ABSTAIN: 1 (Galang)

ANNOUNCEMENTS

Principal Planner Burkey announced that staff has looked into the issue of the Great Mall Freeway Signs.

Mr. Burkey announced that Code Enforcement staff has resolved the Blockbuster window film screen issue.

Mr. Burkey noted that staff has investigated the concerns of Use Permit 1575 regarding a take-out restaurant and noted there was a memo in the Commissions packet with more information. Chair Hay commented that given the enforcement action this should be brought back at the first meeting in February.

Mr. Burkey announced that the Planners Institute would be held in Monterey in March and to let Karen Ramsay know if they would be attending by February 9, 2001.

Mr. Burkey announced that the Mobil Housing Tour would be held on January 20, 2001.

Mr. Burkey noted that Alex Galang had his Planning Commissioner orientation and training on January 8, 2001.

Commissioner Lalwani announced that the Chamber of Commerce

and the Jain Temple are hosting an open house on January 24, 2001 from 12:00 PM to 1:30 PM and it is open to the Planning Commission.

Chair Hay announced that Neal McKenzie of the Sunny Hills Association said that there would be a second community meeting on the cellular antenna being proposed at the MUSD Corp yard.

Chair Hay requested that the titles on the projects be more detailed in the minutes.

Commissioner Williams asked if planning staff has a database set-up for quick recall of use permit information. Mr. Burkey said that staff has a database to track use permits, however, detailed information is stored in a hard copy file.

Chair Hay encouraged any Planning Commissioner who has not attended the Planners Institute to attend in March.

Vice Chair Nitafan announced that there would be a multicultural show at St. John Hall on July 27th at 5:00 PM.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Commissioner Williams added item no. 6 to the agenda to select a new Planning Commission Subcommittee.

Motion to approve the agenda as amended.

M/S: Nitafan/Lalwani

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

There were no changes.

Chair Hay opened the public hearing on consent item nos. 4 and 5.

There were no speakers.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

4. **VARIANCE NO. 509:** Proposal to exceed the current one-story, 17 ft. building height limitation with a two-story building by up to 27 ft. high. Location: Lot 4 in "Calaveras Ridge Estates" on east side Calaveras Ridge Drive. Applicant: Haresh Panchal. Project Planner: Therese Schmidt. **(Close hearing; note receipt & file.)**
5. **PLANNED UNIT DEVELOPMENT NO. 23 AMENDMENT**
Amend the "Calaveras Ridge Estates" PUD, to define structure height as being finished grade to the mid-point of the roof (i.e. halfway between the eave and the ridge of the roof). Location: South end of Calaveras Ridge Drive. Applicant: Calaveras Ridge Homeowners Association, Project Planner Jonelyn Whales. **(Close hearing; note receipt & file.)**

PUBLIC HEARINGS

1. **Use permit No. 1255 Amendment**
Milan Sweets Restaurant Expansion
Assistant Planner Fujimoto presented a request to expand

an existing restaurant at 296 South Abel Street from 1,260-sq. ft. and 16 seats to 3,300-sq. ft. and 36 seats.

Chair Hay asked what type of business was previously located next door. Mr. Fujimoto said that the building next door use to be a massage parlor.

Vice Chair Nitafan said that the lot next door has a tendency to flood in rainy weather and asked staff to contact the property owner in regards to fixing the problem.

Commissioner Sandhu asked if the entrance into the site was from Abel and Main Street. Mr. Fujimoto said yes and noted that there was a second entrance from Main Street.

Commissioner Sandhu asked if the shop hours were 10:00 AM to 8:00 PM. **Shilpa Patel**, Applicant, 296 S. Abel Street, said that the shop is open 10:00 AM to 8:00 PM all week and later on Friday and Saturday. Mr. Sandhu commented that closing at 8:00 PM could cause them to lose some business.

Vice Chair Nitafan asked the applicant if they were satisfied with the conditions of approval. Mr. Patel said that they were in agreement with the conditions, however, the Building Department has not yet approved them.

Chair Hay opened the public hearing.

There were no speakers.

Motion to close the public hearing.

M/S: Williams/Chua

AYES: 7

Motion to approve subject to findings with 15 special conditions.

M/S: Chua/Lalwani

AYES: 7

2. "S" Zone Approval and Architectural

Two-story office building on Montague

Principal Planner Burkey presented a request to construct an 11,000+/- sq. ft. two-story office building located at 905 Montague Expressway.

Vice Chair Nitafan asked how far is the building setback on the east side. Mr. Burkey said the building is setback 41 feet from the curb.

Commissioner Chua commented that the employees should have some incentive to use alternatives to single car commuters. Mr. Burkey said that it would be appropriate to add a condition regarding development of a transportation demand management plan (TDM).

Vice Chair Nitafan asked if the design included merging traffic from Milpitas Boulevard to Montague Expressway. Mr. Burkey said that the merging would be altered with the widening of Montague Expressway and it would be a shared access.

Chair Hay asked if the six trees that are showing on the plan are already existing. Mr. Burkey said yes the trees are already existing. Mr. Hay asked when the widening would take place. Mr. Burkey said that he did not know the exact

scheduled date but it should be within a year or two. Mr. Hay asked if provisions have been made for a sidewalk. Mr. Burkey replied yes.

Chair Hay asked if the utilities need to be underground. Mr. Burkey said that he did not know.

John Ha, Project Architect said that he has no problem with the staff recommendation

Vice Chair Nitafan asked if the window shaders were attached to the building. Mr. Ha said yes the shaders are attached to the building and are made from glass and steel, not concrete.

Mr. Hay asked if the entrance overhang was made of glass. Mr. Ha said it was made of glass with a steel frame. Mr. Hay asked for the depth of the windows. Mr. Ha said that the depth of the windows are 3 inches.

Commissioner Chua said that she likes the design and asked what is the color of the overhang. Mr. Ha said that the overhang is gray and blue. Ms. Chua asked for a description of the landscaping. Mr. Ha replied that the landscaping goes down Montague and wraps around Milpitas Boulevard. Ms. Chua asked if the landscape design would come back to the Planning Commission. Mr. Burkey said that when the landscaping is revised it would come back to the Planning Commission Subcommittee.

Commissioner Williams said that it is important that the style of parking lot lights and signs not be a distraction.

Commissioner Galang asked if the warehouse building is existing. Mr. Ha replied yes the building is existing. Mr. Galang asked if it would be demolished. Mr. Ha said no, it is currently being used. Mr. Galang asked if it is designed to accommodate large trucks. Mr. Ha said it is not designed to accommodate large trucks. Mr. Galang asked if there is

access from Milpitas Boulevard and Montague Expressway. Mr. Ha said that there is access from Montague only. Mr. Galang asked if the Montague access would be used during the construction phase. Mr. Burkey said yes, however it would be just workers and construction vehicles.

Dave Richerson, 1920 Yosemite Drive, said that he really likes this building and asked if the building would be moved 14 feet to the west. Mr. Burkey said yes it would. Mr. Richerson asked if the roll-up doors would be closed off. Mr. Burkey said they would be blocked off to prevent vehicular access.

Motion to close the public hearing.

M/S: Williams/Chua

AYES: 7

Motion to approve "S" Zone Site and Architectural Review subject to findings with 19 special conditions and the added condition requiring the applicant to meet with the Sr. Transportation Planner about developing a TDM plan.

M/S: Nitafan/Galang

AYES: 7

3. **Use Permit No. 1210-Amendment** *Edgie's Billiards, Inc.*

Junior Planner Guido presented a request to allow the sale of food and beer for on-site consumption at a billiard parlor located at 235 South Milpitas Boulevard.

Chair Hay commented that the police report that has been provided is outstanding.

Commissioner Chua referred to the table in the staff report on page 3 that shows calls for police assistance from Edgies Billiards from 1996 through 2000 and questioned why staff didn't show a comparison of police calls for the other two billiards in Milpitas. Mr. Guido said that the comparison provided by the Police Department compared the 3 billiard parlors for the period of December 1999 to November 2000.

Vice Chair Nitafan asked what was the nature of the police calls. Captain Nishisaka said that there were various problems.

Commissioner Lalwani said that she was impressed with the recordkeeping. Ms. Lalwani said she didn't understand why they would want to serve beer at the billiards if they were already having problems.

Antonio and Susie Bangoy, applicants, 2631 Sierra Vista Ct., said that they would like the opportunity to serve beer the same as the other billiard centers and that most of the incidents that happened involved people under 21 years of age. Mr. Bangoy said that the deli always closed at 6:00 PM and lost the older customers. Ms. Bangoy said that many of the police calls were because of gang activity.

Commissioner Williams said that there has been a reduction in gang related calls since the management change and asked the applicant to explain why that is and asked what they could do to keep it that way in the future. Mr. Bangoy said that they have added security cameras in front. Ms. Bangoy said that they have also worked close with the police department. Mr. Bangoy said that they would get more security cameras and check identification at the door. Mr. Bangoy also said that they would attempt to hire 2 more security people.

Commissioner Lalwani asked how long the Bangoy's had been there. Mr. Bangoy said that they took over management six months ago but before that they were long time employees. Ms. Lalwani asked if the calls to police were reduced when they stopped serving beer in June. Mr. Bangoy said that the police calls were not alcohol related.

Commissioner Sandhu asked if they check customers for weapons before they enter the building. Mr. Bangoy said no they do not.

Commissioner Galang asked how many billiard tables they had. Mr. Bangoy said they had 30 tables. Mr. Galang asked how they could monitor 30 billiard tables and the people with only two security people. Mr. Bangoy explained that they have two employees working on the floor and two employees working at the counter and there is also a platform in the building that they can stand on to get a good view of activity below. There would be a total of 6 people monitoring the building.

Commissioner Williams asked if most of the customers were from Milpitas. Mr. Bangoy said that most were from Milpitas and San Jose. Mr. Williams suggested that two 6-month reviews be added as a condition if alcohol is approved. Mr. Guido noted that staff has prepared some alternate conditions of approval to approve alcohol which have not been shared with the applicant.

City Attorney Faubion said that for the record, discussions should be related to the requested sale of beer, but that concerns about gang activity in the area were outside the purview of this application.

The Commission and the applicant reviewed the added conditions from staff.

Chair Hay asked what the hours of operation are. Mr. Bangoy said that they are open Monday through Thursday from 11:00 AM to 2:00 AM and Friday and Saturday from 11:00 AM to 4:00 AM. Mr. Williams asked what time they would stop serving alcohol. Mr. Bangoy said they would stop serving alcohol at 1:00 AM.

Chair Hay asked if there has been any drinking of alcohol out in the parking lot. Mr. Bangoy said yes they bring their own alcohol and drink in outside because they can't buy it inside.

Motion to close the public hearing.

M/S: Nitafan/Lalwani

AYES: 7

Commissioner Williams said that he feels comfortable with the new management and would like to see them continue to manage the business.

Vice Chair Nitafan said that he thinks that adding alcohol is a risk and would like to review the situation in six-months and if it has improved that they can apply for the Use Permit to serve beer.

Commissioner Lalwani asked if the owner is local. Ms. Bangoy said that he recently moved to Vermont. Lalwani asked if the owner wants to sell beer to increase sales. Mr. Bangoy said yes if would increase sales for the management also.

Commissioner Galang said he agreed that there should be a six-month and a 12-month review.

Commissioner Sandhu said that he agrees with staffs recommendation to deny the sale of beer.

Chair Hay said that he doesn't see the nexus between the police calls and alcohol and he is encouraged by the management's attitude.

Mr. Galang asked if there was lighting in the parking lot. Mr. Bangoy said that the parking lot is well lit. Mr. Bangoy also said that they would consider using wrist bands to identify adult beer drinkers and to avoid minors drinking beer.

Motion to approve Use permit 1210-amendment subject to alternate findings and conditions with the sales of snacks, soda and beer for inside consumption only.

M/S: Williams/Chua

AYES: 5 (Hay, Williams, Lalwani, Galang, Chua)

NOES: 2 (Sandhu, Nitafan)

6. Selection of Planning Commission Subcommittee

First Subcommittee member is Commissioner Sandhu.

Second Subcommittee member is Commissioner Chua.

Alternate Subcommittee member is Commissioner Lalwani.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:50 PM to the next regular meeting of January 24, 2001.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY

Recording Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

October 24, 2001

**I. PLEDGE OF
ALLEGIANCE**

Chair Nitafan called the meeting to order at 7:00 P.M.
and led the Pledge of Allegiance.

II. ROLL CALL

Present: Nitafan, Sandhu, Chua, Galang, Hay,
Lalwani, Williams

Absent: None

Staff: Faubion, Heyden, Judd, Oliva

III. PUBLIC FORUM

Chair Nitafan invited members of the audience to address
the Commission on any topic not on the agenda, noting
that no response is required from the staff or
Commission, but that the Commission may choose to
agendize the matter for a future meeting.

There were no speakers.

**IV. APPROVAL OF
MINUTES**

October 10, 2001 Chair Nitafan called for approval of the
minutes of the Planning Commission meeting of October
10, 2001. Motion to approve the minutes of October 10,
2001 as submitted. M/S: Galang/Williams AYES:
7 Commissioner Williams commended staff on the format
of the minutes, commenting that they are easier to read.

V. ANNOUNCEMENTS

Tambri Heyden, Planning Manager, announced that at the October 16, 2001 City Council meeting, it was decided that for the upcoming Awards Recognition Ceremony scheduled on January 31, 2002, Commissioners and Board Members be allowed a gift selection. Ms. Heyden advised the Commissioners to inform her of their selection at the end of the meeting.

Ms. Heyden mentioned that the Commissioners should have received a copy of the approved budget for the fiscal year. **Commissioner Hay** requested that the Planning Commissioners receive the budget handbook on an annual basis.

Ms. Heyden also mentioned that the City Clerk's office has updated the municipal code on the Internet and to let her know individually at the end of the meeting if hard copy inserts are preferred or whether access online is preferred.

Commissioner Hay commented on the October 16, 2001 City Council meeting, where the appeal for the Home Depot food concession stand was approved. Commissioner Hay did not attend the presentation, but read the staff summary and watched the videotape. He felt that staff was less than candid regarding the reasons behind the majority vote of the Planning Commissioners denying the application. Specifically, the discussion of vehicle and pedestrian traffic in front of Home Depot was not discussed. Commissioner Hay mentioned that he contacted Valerie Barone, Director of Planning, Recreation, and Neighborhood Services and Tambri Heyden, Planning Manager, prior to the City Council meeting, and was assured that the issues would be addressed during the presentation. Commissioner Hay felt his concerns were ignored, and that staff was vague and looked foolish at Council. Commissioner Hay made a recommendation that Chair Nitafan attend Council meetings on controversial issues, such as the Home

Depot food stand appeal.

In response to Commissioner Hay, **Chair Nitafan** commented that he is available to attend the City Council meetings on controversial issues, and mentioned that the Planning Commission is an advisory body to the City Council. He felt that as long as the facts are presented, his attendance is not required.

VI. APPROVAL OF AGENDA

Chair Nitafan called for approval of the agenda.

There were no changes to the agenda.

Motion to approve the agenda.

M/S: Lalwani/Williams

AYES: 7

VII. CONSENT CALENDAR

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Commissioner Chua asked if the applicant has any issues with the special conditions for Item No. 1.

Annelise Judd, Assistant Planner, replied that the applicant is aware of the conditions, and hasn't expressed any concerns. Based on that, Commissioner Chua requested that Item No. 1 be added to the consent calendar. After Chair Nitafan received consensus from the Commissioners, this change was made.

Chair Nitafan opened the public hearings on consent Item Nos. 1, 2, and 3.

*** 1. USE PERMIT NO. 1612:** A request to operate a computer network center and arcade within the Neighborhood Commercial zoning district. Project location: 1705 N. Milpitas Boulevard (APN: 22-2-5). Applicant: After Shock, L.L.C. Project Planner: Annelise Judd, 586-3273. (Recommendation: Approval with Conditions)

*** 2 USE PERMIT NO. 1598:** (Continued from September 26, 2001) A request to co- locate telecommunication antennas on an existing 100-foot monopole at 200 Serra Way (APN: 86-07-032). Applicant: MetroPCS. Project Planner: Troy Fujimoto, 586-3287. (Recommendation: Continue to November 28, 2001)

*** 3 MINOR TENTATIVE PARCEL MAP:** A request to consolidate two parcels into one legal lot in order to provide required on-site parking (APN: 022-24-005 and 022- 24-032). Applicant: George Famous for Pacific Bell. Project Planner: Staci Pereira, 586-3278. (Recommendation: Continue to November 28, 2001)

There were no speakers from the audience.

Motion to close the public hearing on Item No. 1 only, and continue Item No. 2 and 3 to November 28, 2001.

M/S: Williams/Chua

AYES: 7

Motion to approve the consent calendar, Item No. 1.M/S: Hay/Chua

AYES: 7

VIII. NEW BUSINESS

1. SILICON VALLEY RAPID TRANSIT CORRIDOR

Joe Oliva, Principal Transportation Planner, presented a resolution to support the SVRTC (Silicon Valley Rapid Transit Corridor) major investment study (MIS), and recommended approval.

Commissioner Hay mentioned that the Policy Advisory Board requested that VTA meet with its community working groups to evaluate a "BART-like" alternative to BART's trains.

Mr. Oliva responded that the "BART-like" alternative is being used as a contingency plan in case BART and VTA negotiations fail to reach an agreement.

Commissioner Williams asked about Union Pacific's plan with the car storage near Calaveras Boulevard. Mr. Oliva responded that the storage area would be used as the BART maintenance area.

Commissioner Chua gave thanks to Mr. Oliva for updating the Planning Commission on BART and VTA.

In response to **Commissioner Lalwani**, Mr. Oliva stated that on October 3, 2001, there was a group-working meeting supporting the "BART-like" alternative. Mr. Oliva also mentioned that an open house was held on October 15, 2001 at the Community Center and that the majority who attended were in support of the MIS.

Chair Nitafan referred to the back of the VTA brochure handout and asked if any of the Commissioners attended the public hearing meeting held on October 15, 2001.

Mr. Oliva responded that Commissioner Hay attended.

Chair Nitafan mentioned his concerns about not being informed about the VTA meetings, and that the Planning Commission should be notified.

Commissioner Hay mentioned that he receives notices of VTA's public meetings in the mail, and thought the Planning Commission had been notified about a month ago.

Chair Nitafan also mentioned that he felt that the station location referred to in the resolution as "Central Milpitas" needs to be more specific.

Mr. Oliva responded that the optional station was changed to the central station. This will change the strategy and the wording to have an outstation, and downplay the Montague Capital station because that station serves San Jose more than Milpitas.

Chair Nitafan requested that Item No. 1 in the resolution be changed so that the "central" Milpitas station at Calaveras Boulevard be included as an "integral part" of the preferred investment strategy and the term "optional station" removed as part of the EIR/EIS phase of the study.

Chair Nitafan announced that this is not a public hearing but the audience is welcome to comment.

Rob Means, 1421 Yellowstone, felt a feeder system is important between the two BART stations and showed a graphic of eight different stations instead of a central station. He is in agreement with the VTA proposal that puts a substation in the center of town. If VTA proposes to give the City \$80 million dollars, the City can make eight stations instead of one station.

Commissioner Williams requested clarification on what Mr. Means meant by a feeder system.

Mr. Means responded that a feeder system is an automated system that could be "people movers" or personal rapid transit stations.

Commissioner Williams asked if a feeder system was proposed, would the location be near Main street, and would it be pedestrian friendly

Mr. Means said it is possible to have a feeder system on Main Street. Feeder systems are the cheapest way to carry people because it is an elevated system, and lightweight.

Commissioner Hay commented that as a member of the Transportation Subcommittee, part of the discussion was related to help support the City in its efforts by Mr. Oliva, and recommends approval of the resolution. He then asked Chair Nitafan to clarify his requested change to Item No. 1. After Chair Nitafan restated his request, Commissioner Hay stated his concern with mandating a location.

Mr. Oliva mentioned that he is not sure if the Council wants to lock themselves into a specific location. That is why the term "central location" was used.

Motion to approve the resolution with one change - to add the words "be included as an integral part" after the reference to the central Milpitas station.

M/S: Hay/Chua

AYES: 7

IX. OLD BUSINESS

2. MIDTOWN SPECIFIC PLAN UPDATE

Chair Nitafan excused himself due to a conflict of interest with this item and passed the gavel to Vice Chair Sandhu. Commissioner Chua abstained due to conflict of interest also.

Tambri Heyden, Planning Manager, announced that the Midtown draft is located on the City's website, and property owners, business owners, and public agencies received copies by request. The Midtown plan is the result of the City Council, Planning Commission and the Community vision of an urban mixed-use area, and a 20-month effort involving 100 community members, staff members, Planning Commissioners, and the Midtown Subcommittee.

The Midtown Plan can be used as a model for other jurisdictions to follow. The Midtown Plan includes 4,000 units in the midtown area and new challenging guidelines to follow such as transit development. The Midtown Plan will allow for improvements to pedestrian movement and the environment, and create a blueprint for smart growth for the city's future housing. Last week the City distributed 100 copies of the draft EIR (Environmental Impact Report) which is a 20 year build-out plan analyzing such things as traffic and air quality impacts that Midtown will have.

Ms. Heyden noted that public comment period on the draft EIR began last week and will end November 25, 2001. There will be a special, separate public hearing on November 15, 2001 to hear comments on the draft EIR.

Commissioner Hay congratulated staff for preparing and presenting an excellent and impressive document.

Commissioner Williams mentioned how he was on the subcommittee, and it is amazing to see 2 ½ years of

summation of all the numerous meetings and public testimonies, and how the Midtown plan is an excellent document.

Commissioner Williams also gave appreciation to fellow citizens for their comments and concerns. Commissioner Williams gave specific thanks to Marina Rush, **Associate Planner**, for her knowledge, persistence, and long hours of pulling this work together.

Commissioner Hay and Commissioner Galang echoed Commissioner Williams's comments and gave thanks to Marina Rush.

Commissioner Lalwani asked if the Midtown Plan is distributed to everyone, and Ms. Heyden replied that anyone can request one.

After a question from Vice Chair Sandhu about when the Plan will become effective, Ms. Heyden responded that staff is looking to have a special Planning Commission meeting sometime in late January and Council adoption is planned for March.

X. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:10 p.m. to the next regular meeting of November 14, 2001.

Respectfully Submitted,

TAMBRI HEYDEN
Planning Commission
Secretary

VERONICA RODRIGUEZ
Recording Secretary

**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION MINUTES
January 24, 2001**

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Lalwani, Galang, Sandhu, Chua, Williams

Absent:

Staff: Burkey, Ramsay, Fujimoto, Judd, Rush, Faubion,
Whales, Guido, Schmidt

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of January 10, 2001.

Motion to approve the minutes of January 10, 2001 as submitted.

M/S: Nitafan/Williams

AYES: 7

ANNOUNCEMENTS

Chair Hay announced that the City of Milpitas is celebrating it's 47th Birthday today.

Mr. Hay commented that the housing tour was very well done.

Mr. Hay thanked the Recording Secretary for adding an explanation of the project titles in the minutes.

Commissioner Chua said she would like to echo Mr. Hay in saying that the housing tour was very well done.

Ms. Chua wished City of Milpitas residents a Happy Chinese New Year.

Vice Chair Nitafan asked if staff has investigated the lot next door to Milian Sweets Restaurant. Principal Planner Burkey said that staff would have information on that issue at the February 14, 2001 meeting.

Commissioner Williams thanked the Jain Center for having an open house today, noting that it was a beautiful place of worship.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Nitafan/Lalwani

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Principal Planner Burkey said that staff recommends the following changes to consent items 2, 3 and 4: continue the public hearing on item no. 2 to February 14, 2001; change the staff recommendation on item no. 3 to continue to February 14, 2001 instead of March 28, 2001; and delete special condition no. 8 on consent item no. 4.

Chair Hay opened the public hearing on consent item nos. 2, 3 and 4.

There were no speakers.

Motion to close the public hearing on consent item no 4.

M/S: Nitafan/Williams

AYES: 7

Vice Chair Nitafan said he would abstain from voting on consent item nos. 2 and 4 due to a potential conflict of interest.

Commissioner Chua said that she would abstain from voting on consent item no. 2 due to a potential conflict of interest.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

2. **HILLSIDE SITE & ARCHITECTURAL REVIEW:** A request to develop a 5,979 square foot one-story single family

residence with attached garage and basement at 1027 Calaveras Ridge Road (APN: 029-03-021). Applicant: Takuo Kanno & Associates. Project Planner: Therese Schmidt, 586-3286. **(Open the public hearing and continue to February 14, 2001).**

3. **USE PERMIT NO. 1576 :** A request to operate a religious assembly activity within an M2 (Heavy Industrial) Zone at 533-535 Sinclair Frontage Road (APN: 086-44-020 and 021). Applicant: Islamic Research Association. Project Planner: Frank Guido, 586-3284. **(Open the public hearing and continue to February 14, 2001)**
4. **MAJOR TENTATIVE MAP SUBDIVISION:** Application to subdivide the approved 10.1 acre Yosemite Business Park (in the southwest quadrant of Yosemite Drive and Sinclair Frontage Road) into 6 lots (approximately 1.6, 1.1, 2.1, 1.4, 1.5, and 2.4 acres). (APNS: 086-031-001, 022, and 027). Applicant: WP Investments. Project Planner: Frank Guido, 586-3284. **(Close the public hearing and recommend approval to the City Council).**

M/S: Sandhu/Lalwani

AYES: 5 (Hay, Williams, Sandhu, Lalwani, Galang)

ABSTAIN: 2 (Nitafan on 2 & 4, Chua on 2)

PUBLIC HEARINGS

1. **Coyote Creek Trail Draft Mitigated Negative Declaration (EIA NO. 753)**
Assistant Planner Judd, City consultants Jana Sokale and Christine Schneider presented an in-progress review of Initial Study and Draft Mitigated Negative Declaration for Coyote Creek Trail located at Coyote Creek corridor,

between Dixon Landing Road and Montague Expressway.

Chair Hay asked if all of the trails would be surfaced in one form or another. Ms. Sokale said yes that the trails would be surfaced. Mr. Hay asked for a description of the different trail surfaces. Ms. Sokale said that on "Reach 1", from 237 to Dixon Landing, they are proposing a 10 to 12 foot asphalt surface to accommodate various uses, and they are also proposing no new surfacing on Reaches 2 through 3 beyond the crushed gravel that exists. Mr. Hay asked if horses or motorized bikes would be allowed. Ms. Sokale said that no, they would not be allowed. Mr. Hay asked if there would be signage along the trail that would indicate its usage. Ms. Sokale said yes there would be signage to indicate the usage of the trail, trail hours and directions.

Chair Hay quoted the draft report as saying that the east levee provides adequate top of bank gravel to accommodate the trail along Coyote Creek and that the Santa Clara Valley Water District would require that the levee be raised about one foot prior to surfacing. Mr. Hay questioned who would pay for the levee to be raised. Ms. Sokale said that it could be cost shared or it may have to be paid by the City. Mr. Hay asked for an explanation of specific mitigation measures for the burrowing owl. Ms. Sokale said that they looked at the McCarthy Ranch mitigation measures and they built on those, noting that the only time that a burrowing owl would be impacted is during the construction phase.

Commissioner Chua asked the length of the trail. Ms. Sokale said that the trail was over five miles. Ms. Chua asked what the projected completion date of the project is. Public Works Supervisor, Carol Randisi responded that the Coyote Creek Access project is in the 85% complete design phase and should be complete next fall.

Commissioner Chua asked what the relationship of the proposed Coyote trail is to the bikeway master plan. Ms.

Sokale said that the bikeway master plan looks at the on-street system of bicycle lanes and routes that are throughout the city and the trail master plan looks at the off-street system along the creek corridors and the utility right of ways.

Commissioner Chua asked how security issues would be addressed. Ms. Sokale said that part of the public services component is that adequate funds should be provided for maintenance and security of the trail. Ms. Sokale added that she has shared with Ms. Randisi an operation and maintenance plan that was developed by the City of Mountain View that details daily, weekly and monthly maintenance and security, and commented that the City also has volunteer programs that they could use for trail patrols.

Commissioner Sandhu asked if there would be any lighting for security reasons. Ms. Sokale said that lighting has a negative impact on the wildlife that use the corridor, also this trail would be opened from dawn to dusk, therefore they are not recommending any lighting. Mr. Sandhu asked if there would be public telephones. Ms. Sokale said that there would not be any public telephones, however they may consider putting in solar powered call boxes.

Commissioner Lalwani asked if the businesses along the trail would allow public parking. Ms. Sokale said that there have been provisions made to allow some trial parking on the weekends and on the holidays along Reach 1.

Commissioner Galang asked if trees would be planted along the trail. Ms. Sokale replied that the water district has strict requirements so planting is very limited noting that they can not plant directly on the levee.

Vice Chair Nitafan asked where the Milpitas boundary is along the creek. Mr. Burkey said the Milpitas boundary is at the center of the creek. Mr. Nitafan requested that odor

mitigation be addressed for Reach 1. Ms. Sokale said that on windy days some odors come from the landfill but that it is not something they can mitigate. Mr. Nitafan commented that this issue would come up again and asked that it be looked into.

Chair Hay opened the public hearing.

Rob Means, 1421 Yellowstone, said that this trail would give the Community the opportunity to have an off-road system to walk or cycle to their jobs instead of contending with traffic.

Ms. Randisi stated that the public review period is 30-days and would end, Thursday, February 8, 2001.

5. Review of FY 1999-2000 Redevelopment Agency Financial Report and Annual Report

Finance Director, Scott Johnson presented a review of the Fiscal Year 1999-2000 Redevelopment Agency Financial Report and Annual Report.

Chair Hay asked what the percentage of savings is for the rating upgrade from A- to A. Mr. Johnson said that there is a saving of 25 basis points to 35 basis points.

Chair Hay asked what happens to the tax revenue when the project area is terminated. Mr. Johnson said that the tax revenue would terminate as well unless there are bonds outstanding.

Commissioner Lalwani asked if the Redevelopment Agency has increased the property taxes. Mr. Johnson replied that the Redevelopment agency increased an accumulative cap in 1996.

Vice Chair Nitafan asked if the City has recovered all of its investments. Mr. Johnson said that the City has recovered

all of its investments plus interest earnings as well.

Chair Hay asked whom the recovery was from. Mr. Johnson responded that the recovery was from a number of sources.

Motion to note receipt and file.

M/S: Lalwani/Nitafan

AYES: 7

6. Set Date and Time for Transportation Planning Worksession

Principal Planner Burkey said that staff is recommending the Planning Commission hold the Transportation Planning Worksession on February 14, 2001 and start the meeting at 6:30 PM. It was agreed that the Transportation Planning Worksession would begin at 6:30 PM.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:00 PM to the next regular meeting of February 14, 2001.

Respectfully Submitted,

STEVE BURKEY
Secretary

KAREN RAMSAY
Recording Secretary

**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION MINUTES
February 14, 2001**

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Lalwani, Galang, Sandhu, Chua, Williams

Absent:

Staff: Burkey, Ramsay, Faubion, Oliva, Barone

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of January 20, 2001 and January 24, 2001.

Motion to approve the minutes of January 20, 2001 and January 24, 2001 as submitted.

M/S: Nitafan/Lalwani

ANNOUNCEMENTS

Principal Planner Burkey announced that staff followed up on Vice Chair Nitafan's concern regarding standing water on Serra Way that there were no code violations, however staff did send a letter to the property owner stating that there was a concern from the Planning Commission.

Commissioner Lalwani said that Assistant City Manager June Catalano asked her to bid farewell to all of the Commissioners, as she has resigned from the City of Milpitas and has accepted a City Manager position with the City of Martinez.

Commissioner Sandhu asked how Milpitas residents could find out the process to apply for affordable housing in Milpitas. Planning and Neighborhood Preservation Director Barone replied that they could contact Felix Reliford at 586-3071.

Vice Chair wished all of the citizens of Milpitas a Happy Valentines Day.

Commissioner Chua introduced Heidi Freid, Milpitas resident and Realtor representing the Santa Clara County Association of Realtors Housing Element Subcommittee. Ms. Freid spoke briefly with the Commission regarding the upcoming Housing Element update.

David Richerson, 1920 Yosemite Dr., representing the Telecommunications Commission, announced that the City Council expanded the scope of the Telecommunications to include energy conservation issues.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Nitafan/Chua

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Chair Hay opened the public hearing on item nos. 1 and 2.

Vice Chair Nitafan and Commissioner Chua abstained from voting on consent item nos. 1 and 2 due to a conflict of interest.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

1. **HILLSIDE SITE & ARCHITECTURAL REVIEWREVIEW**
(Continued from January 24, 2001 meeting): A request to develop a 5,979 square foot one-story single family residence with attached garage and basement at 1027 Calaveras Ridge Road (APN: 029-03-021). Applicant: Takuo Kanno & Associates. Project Planner: Therese Schmidt. ***(Open the public hearing and continue to February 28, 2001).***
2. **HILLSIDE SITE & ARCHITECTURAL REVIEWREVIEW**
(Continued from January 24, 2001 meeting): A request to develop a ± 7,000 square foot one-story single family residence at the northeast corner of Quince Lane and Evans Road (APN: 029-30-017). Applicant: John Ha. Project Planner: Jonelyn Whales. ***(Open the public hearing and continue to February 28, 2001)***
3. **USE PERMIT NO. 1502, SIX-MONTH REVIEW:** A review

of the conditions of approval and compost pit management plan for the 4-H facility at 3001 E. Calaveras Boulevard. Applicant: James McKeefrey. Project Planner: Jonelyn Whales. **(Note receipt and file).**

M/S: Nitafan/Chua

AYES: 5 (Hay, Williams, Sandhu, Lalwani, Galang)

ABSTAIN: 2 (Chua, Nitafan)

STAFF PRESENTATION

Senior Transportation Planner Oliva, presented a work session reporting on Federal, State, Regional and Local transportation issues.

Chair Hay asked Mr. Oliva to define CEQA. Mr. Oliva explained that CEQA stands for California Environmental Quality Act, was originated in the 1970's and was intended to become an informational document for decision makers to disclose the environmental impacts of a project and potential mitigation measures.

Commissioner Williams asked who determines how the traffic signal lights are timed at the City's intersections. Mr. Oliva explained that a contractor goes over the traffic signal timing with the City Traffic Engineer for City intersection signals. Mr. Williams questioned whether there are conditions that are put into place as far as timing of the signals when the City has specific events that are forthcoming, what the timeframe is for implementing the City's automated system with surveillance cameras installed at intersections. Mr. Oliva said that the Silicon Valley Smart Corridor looks at the main east-west arterial and timing plans and it looks at restructuring the timing plans based on information for the entire Silicon Valley Smart Corridor project.

Commissioner Chua asked if a development project's consultant

recommends the Traffic Impact Analysis methodology or does the City have a methodology. Mr. Oliva said that there are general guidelines and criteria that have to be met and set fourth in the Congestion Management Program of the Valley Transportation Authority.

Chair Hay asked who does the annual CMP review. Mr. Oliva said that the City collects the data and does the intersection analysis for the two CMP intersections along Calaveras Boulevard at Milpitas Boulevard and Abel Street and the County does the counts and performs the calculations along Montague Expressway. Mr. Hay asked the frequency of updating the Circulation Element and if that element of the General Plan addresses the same issues in a broader sense. Mr. Oliva said that the Circulation Element is a general, policy-driven document, however, they are hoping to update in the near future a 1997 technical paper on existing and future transportation issues.

Planning and Neighborhood Preservation Director Barone stated that through the CMP the City does a yearly analysis in association with the other jurisdictions that are involved in the VTA and as each project comes in they build on the information that came through before.

Vice Chair Nitafan asked if the members of the City's Transportation Subcommittee are Mayor Manyan and Councilmember Lawson. Mr. Oliva said that is correct. Mr. Nitafan asked if it would be possible for a transportation professional to become a part of the Transportation Subcommittee. Mr. Oliva said that adding a transportation professional to the Transportation Subcommittee would be at the City Council's direction and that he would look into the matter. Mr. Nitafan asked if the City hires the TIA consultants for private development projects. Ms. Barone stated that the TIA consultants are hired by the project applicants, and they can hire any qualified traffic-engineering firm that they choose. Mr. Nitafan asked for an explanation on the mitigation process. Mr. Oliva replied that the mitigation measures are generally published in a draft TIA by consultants. The Traffic Engineer, the Project Planner and Senior Transportation Planner then go over the information to deem if they are feasible

mitigation measures and to determine if there are alternative mitigation measures.

Commissioner Williams questioned whether the subject of the Planning Commission being involved in the transportation planning process has come up in the past. Chair Hay replied that the subject has come up in the past. Mr. Hay noted that he is concerned about the extent the Planning Commission is aware public transit projects that impact all of the intersections and traffic projects that are City initiated and part of the Capital Improvement Plan. Lastly, Mr. Hay said that the Planning Commission needs to be integrated into the transportation planning process.

Vice Chair Nitafan recommended that staff should include in their summaries, the regional impacts of projects.

Chair Hay requested that the City Council consider having one or two members of the Planning Commission on the Transportation Subcommittee to give the Planning Commission some connection to the kinds of issues that are being discussed at that level.

Mr. Oliva stated that he would volunteer his services to become more proactive and help keep the Planning Commission better informed on regional activities.

Motion to request to the City Council that Planning Commission members be included as part of the Transportation Subcommittee.

M/S: Chua/Nitafan

AYES: 7

Chair Hay voiced his concern regarding the methodology of how Traffic Impact Analysis are conducted and said that depending on who is conducting the study, conclusions could be drawn that

might be in the best interest of the project but not necessarily in the best interest of the City. Commissioner Chua commented that she relies on City staff to review and analyze the TIA's regardless of who the consultant is. Commissioner Williams commented that he also has concerns regarding the methodology of how the TIA's are conducted. Vice Chair Nitafan commented that the applicant and consultant should be independent of each other.

NEW BUSINESS

4. Work Session on Proposed Avaya Project

Principal Planner Burkey gave an introductory overview of proposed a proposed 6-story, 200,000-sq. ft. office building on the west side of Murphy Ranch Road.

Carl Luppens of Townsend Capital LLC and Steve Eckersley of Avaya, presented the proposal for the Avaya project.

Commissioner Williams asked how many personnel would be at this location. Mr. Eckersley said that there would be approximately 600 to 800 personnel.

Commissioner Chua asked what they mean by regional headquarters. Mr. Eckersley replied that the Milpitas office would be the prime office facility for Avaya has in the western region of the United States. Ms. Chua asked if they currently have existing regional offices. Mr. Eckersley said that the nearest is the existing Milpitas campus.

Commissioner Lalwani asked what was the meaning of Avaya. Mr. Eckersley said that the word Avaya is a made-up word and has no meaning.

Commissioner Sandhu asked if there would be any manufacturing operations in this facility. Mr. Eckersley said there would not be any manufacturing operations, only

offices.

Commissioner Williams asked if they would allow for antennas to be placed on top of the structure. Mr. Lupens said they have no interest in antennas on top of the building.

Commissioner Chua said that she has no problem with a six-story building.

Commissioner Galang asked what the purpose of the football shaped roof design is. Mr. Eckersley said that it is rooftop equipmentscreen.

Vice Chair Nitaan suggested that the front of the building be made more pedestrian friendly.

Bill Smith of Smith and Smith Landscape Architects, gave a summary of the architecture of the proposed building.

Vice Chair Nitaan asked if the cafeteria and the conference rooms would be open to the public. Mr. Smith said that the cafeteria and the conference rooms would be for employee use only. Mr. Nitaan asked if the trees would all be the same. Mr. Smith said that at the next meeting he would bring back a tree list with a variety of trees to choose from.

Commissioner Galang asked if the recreation facility would be open to the public. Mr. Smith said that the recreation facility was for the employees.

Bob Evans of HDR Architects said that building architecture is the least developed part of the project at this point and asked the Commission which rendering they preferred.

Chair Hay said that he is supportive of both designs but prefers rendering no. 1.

Vice Chair Nitafan said that he prefers rendering no. 2.

Commissioner Chua said that it is one of the best designs that she has seen and noted that she prefers rendering no. 2.

Commissioner Galang said that he likes the design and prefers rendering no. 2

Commissioner Lalwani said that she likes the design and prefers rendering no. 1.

Commissioner Sandhu said that he prefers rendering no. 2.

Commissioner Williams said that he prefers rendering no. 1 and likes the colored glass.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:20 PM to the next regular meeting of February 28, 2001.

Respectfully Submitted,

STEVE BURKEY
Secretary

KAREN RAMSAY
Recording Secretary

**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION MINUTES
February 28, 2001**

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Lalwani, Galang, Sandhu, Chua,
Williams

Late Arrival: Lalwani

Staff: Burkey, Ramsay, Fujimoto, Faubion, Whales,
Schmidt

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of February 14, 2001.

Motion to approve the minutes of February 14, 2001 as submitted.

M/S: Nitafan/Chua

AYES: 6

LATE ARRIVAL: 1 Lalwani

ANNOUNCEMENTS

Principal Planner Burkey announced that a special Planning Commission meeting would have to be scheduled in order for the Renaissance Hotel project to stay on schedule. It was agreed upon by staff and the Planning Commission that a special Planning Commission meeting would be scheduled for May 30, 2001, beginning at 7:00 PM.

Commissioner Chua announced that she is a member of the Flood and Water Management Task Force and next week they would be presenting to City Council the work they have done for the last year. Ms. Chua went on to say that the task force's rating under the Community Rating System is "5" which means that they have reduced their flood insurance 20%.

Vice Chair Nitafan announced that the Firefighter of the Year, Policeman of the year and Citizen of the year would be honored on March 17, 2001 at the Milpitas Community Center and encouraged the public to attend.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Vice Chair Nitafan asked that item no. 4 on the agenda be discussed before item no. 1. As there were no objections, it was so ordered.

Motion to approve the agenda as amended.

M/S: Nitafan/Chua

AYES: 6

LATE ARRIVAL: 1 (Lalwani)

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Chair Hay opened the public hearing on consent item no. 3.

There were no speakers.

Motion to close the public hearing.

M/S: Nitaflan/Chua

AYES: 6 (Hay, Nitaflan, Chua, Sandhu, Williams,
Galang)

LATE ARRIVAL: 1 (Lalwani)

Motion to approve the following consent calendar as submitted with staff recommendation and special conditions:

3. **USE PERMIT NO. 1547-AMENDMENT:** Add beer and wine to existing restaurant at 1747 N. Milpitas Boulevard (APN: 022-02-005). Applicant: Raman Deep Chiber. Project Planner: Troy Fujimoto, 586-3287. *(Approved)*.

M/S: Williams/Sandhu

AYES: 6 (Hay, Nitaflan, Chua, Sandhu, Williams,
Galang)

PUBLIC HEARINGS

4. Review on Garbage Violations, Milpitas Shopping Center

Project Planner Fujimoto presented a status report on garbage violations at the Milpitas Shopping Center located at S. Abbott Avenue at W. Calaveras Boulevard.

Vice Chair Nitafan asked why the garbage bins were located in the parking lot. Mr. Fujimoto replied that the BFI charges a fee if they have to take garbage bins out of an enclosure, the owner doesn't want to pay a fee so the bins are left in the parking lot for easy access.

Commissioner Chua asked what triggered the City to report this garbage issue to the County Health Department. Mr. Fujimoto said that staff had discovered health code violations on previous site visits. Ms. Chua asked why this shopping center is being singled out and commented that the same problem must exist at other shopping centers. Mr. Fujimoto said that this shopping center is required to satisfy special conditions of approval before they can get the Building Permit that they are requesting. Ms. Chua asked if staff is satisfied with the property owner's compliance with the issues that are being presented to him. Mr. Burkey stated that while staff is never satisfied until all violations are taken care of, staff is pleased to note that progress is being made.

Chair Hay stated that the quandary for him is that the backyards are a short distance of about 5-feet from the garbage bins and neighbors have complained to the Planning Commission in the past about odor issues. Mr.

Hay commented that the property owner needs to take the responsibility to make sure that the tenants maintain the property. Mr. Hay asked for clarification of the conditions of approval for those two restaurants. Mr. Fujimoto replied that one of the restaurants has a use permit that was issued before the City incorporated, and has no special conditions and that while the other restaurant has a use permit with the City of Milpitas, the special conditions that they have are not as stringent as the special conditions that have been placed on other restaurants throughout the City recently.

Commissioner Chua commented that there is no incentive for the owner to take any actions because the rent is being paid.

Commissioner Williams said that in his opinion the property owner is not taking a proactive approach to address this problem and resolve it.

Vice Chair Nitafan asked if staff could enforce a timeframe on resolving the issue. Mr. Fujimoto said yes, they could enforce a timeframe.

Commissioner Sandhu asked if they have dealt with the property owner directly. Mr. Fujimoto said yes they have talked with the property owner. Mr. Sandhu asked if they have thought about moving the garage bins to another location. Mr. Fujimoto said that because the shopping center is two parcels, the only area that it can be located in is the northern section where it is now because the southern end parcel belongs to another property owner. Mr. Sandhu asked if they could take out any parking spaces to make room for the garbage bins. Mr. Fujimoto said that they don't have any excess parking and need to keep the parking spaces that they have now.

William Cilker Jr., property owner, 1631 Willow Street #225. San Jose, CA 94536, said that he wanted to clarify

that he has not collected any rent from the tenant. Mr. Cilker commented that when staff inspects the property they only give a brief report and don't ask how long garbage has been sitting there or why it is sitting there and noted that the pot of grease that was sitting out was put out to cool before it could be thrown away and the garbage is stored in a closed plastic bag before it is put outside. Chair Hay said that the Planning Commission thought the restaurant owner was paying rent because it was stated as such in the staff report.

Natta Tannitad, restaurant owner, said that she never indicated that she was paying rent, she said she was paying for her restaurant supplies and also had signed a property lease and paid a security deposit.

Vice Chair Nitafan asked if staff contacts the property owner before they do a site check. Mr. Cilker said that he is not contacted before the site check. Mr. Fujimoto said that the site checks are at random occurring on different days and different times of the week.

Commissioner Chua apologized to Mr., Cilker for the misinformation the Planning Commission received regarding the rent issue and asked what it would take to clear up the one outstanding issue. Mr. Cilker said that he isn't clear on what the problem is because the garbage containers are put out at night and picked up every morning and he doesn't know what else he can do. Mr. Chua said that the exposed garbage bins are the issue. Mr. Cilker said that the garbage bins are located way in the back. Mr. Fujimoto explained that the violation is that no garbage bins are to be in public site and these bins can be seen from South Abbott.

Chair Hay apologized to Mr. Cilker for any statements he might have made regarding the rent and asked Mr. Cilker if he was the property when it was first constructed. Mr. Cilker said no he was not and noted that it was built in

1960.

Ms. Tannitad said that she would like to have special condition no. 7 removed because it states that all conditions must be met before a use permit can be issued and she doesn't have control over the other tenants that share the site.

Dave Richerson, 1920 Yosemite Drive, said that he sympathizes with the property owner on the BFI services or lack of, and commented that the Planning Commission might rephrase the special condition to say that all conditions must be met that pertain to that applicants business.

Chair Hay said that he appreciates the situation being faced by the applicant and also appreciates Mr. Cilker's attitude about cleaning up the area. Mr. Hay said they should acknowledge that all of the violations have been corrected as stated by staff with the exception of the garbage bins being located in the parking lot suggesting that this particular violation be removed from the conditions which would result in the conditions being satisfied and the applicant could be issued the building permit. Mr. Hay pointed out that the issue of compliance regarding the garbage bins being located in the parking lot isn't necessary to be tied to a special condition in this particular application, due to the fact that it is part of the City's ordinance.

Mr. Burkey explained that the applicant has been advised that the only way the condition of approval can be removed is for her to apply for it and for a public hearing to be conducted, which could be conducted at the March 14, 2001 meeting. Commissioner Chua asked if they could make a motion tonight. Mr. Burkey said that this is not a public hearing so the Commission can not make a motion to delete, amend or otherwise change the condition, they would need to go through the formal process to do so. Mr.

Burkey went on to explain that because this condition was imposed on her particular use on that particular tenant space that should be interpreted as only applying to the conditions of her particular space. If the Commission is comfortable with that interpretation they can act and say that is their official interpretation which would allow staff to conclude that there is no particular violations with regards to trash bins for her particular space and at that time a building permit could be processed. If the Commission is not comfortable making that interpretation the applicant would have to come before the Commission on March 14, 2001 to delete the condition.

Vice Chair Nitafan asked what staff's interpretation is of this special condition. Mr. Burkey replied that it was the interpretation of staff that it was the intent of the Commission for this condition to be applied to the entire center. Mr. Nitafan said that it is his recommendation to the Commission to look at this condition separately and to continue to monitor the issue.

Chair Hay said that his intent at the time was that this condition did apply to the center as a whole and noted that the Commission has put staff and Mr. Clikier through a lot of grief because they were not clear enough with their motion. Mr. Hay added that his intent was regarding issues relating to what was behind the restaurants regarding grease, odor and cleanliness and had nothing to do with the dumpster being on the inside or outside of the enclosure.

Ms. Chua said that her main concern is that the issues of odor and any inconvenience to the neighbors are resolved.

City Attorney Faubion explained that if the applicant wants to have the condition removed it must happen at a noticed public hearing, however, as this discussion has proceeded it appears that the Commissions particular concerns have been resolved and that the outstanding issue here is not the one that the Planning Commission is concerned about.

Ms. Faubion noted that it would be appropriate for the Commission to state that they were concerned about trash and that they were concerned about the entire center but not what was happening with the trash bin being in view and that they consider the conditions to be completed. Ms. Faubion suggested that the Commission make a motion and said that it should be noted for the record that the item was agendaized and the staff report was prepared for review of garbage violations at the Milpitas Shopping Center.

Motion to clarify that special condition no. 7 did not apply to the current violation, which has been identified by staff.

M/S: Chua/Nitafan

AYES: 7 (Hay, Nitafan, Chua, Sandhu, Williams, Lalwani, Galang)

Motion to note receipt and file.

M/S: Chua/Nitafan

AYES: 7 (Hay, Nitafan, Chua, Sandhu, Williams, Lalwani, Galang)

Vice Chair Nitafan and Commissioner Chua abstained from voting on project nos. 1 and 2 due to a conflict of interest.

1. **Hillside Site & Architectural Review** (*A request to develop a 5, 979 sq.ft. one-story single family residence.*)

Project Planner Schmidt presented a request to develop a + 5,979 square foot one-story single family residence with

attached garage and basement located at 1027 Calaveras Ridge Road.

Chair Hay opened the public hearing.

Takuo Kanno, 333 Bryant Street, Suite 200, San Francisco, asked the Commission if there were any questions. Commissioner Williams asked if the spaces about the living area open spaces or living spaces. Mr. Kanno replied that one is a storage and the other is a one bedroom.

Motion to Close the public hearing.

M/S: Sandhu/Williams

AYES: 4 (Hay, Williams, Sandhu, Lalwani, Galang)

ABSTAINED: 2 (Nitafan, Chua)

Motion to recommend to City Council approval of Hillside Site & Architectural Review subject to findings and special conditions.

M/S: Williams/Sandhu

AYES: 5 (Hay, Williams, Sandhu, Lalwani, Galang)

ABSTAINED: 2 (Nitafan, Chua)

2. **Hillside Site & Architectural Review** (*A request to develop a + 7,000 sq. ft. one-story single family residence*).

Project Planner Whales presented a request to develop a + 7,000 square foot one-story single family residence located

at the northeast corner of Quince Lane and Evans Road.

Chair Hay opened the public hearing.

There were no speakers

Chair Hay stated for the record that this is an area where there have been slides in the past and the applicant is being asked to execute a hold harmless agreement to the City in case there sliding in the area.

Motion to close the public hearing.

M/S: Williams/Hay

AYES: 5 (Hay, Williams, Sandhu, Galang, Lalwani)

ABSTAINED: 2 (Nitafan, Chua)

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:46 PM to the next regular meeting of March 14, 2001.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY

Recording Secretary

ce Hotel project to stay on schedule. It was agreed upon by staff and the Planning Commission that a special Planning Commission meeting would be scheduled for May 30, 2001, beginning at 7:00 PM.

Commissioner Chua announced that she is a member of the Flood and Water Management Task Force and next week they would be presenting to City Council the work they have done for the last year. Ms. Chua went on to say that the task force's rating under the Community Rating System is "5" which means that they have reduced their flood insurance 20%.

Vice Chair Nitafan announced that the Firefighter of the Year, Policeman of the year and Citizen of the year would be honored on March 17, 2001 at the Milpitas Community Center and encouraged the public to attend.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Vice Chair Nitafan asked that item no. 4 on the agenda be discussed before item no. 1. As there were no objections, it was so ordered.

Motion to approve the agenda as amended.

M/S: Nitafan/Chua

AYES: 6

LATE ARRIVAL: 1 (Lalwani)

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Chair Hay opened the public hearing on consent item no. 3.

There were no speakers.

Motion to close the public hearing.

M/S: Nitafan/Chua

AYES: 6 (Hay, Nitafan, Chua, Sandhu, Williams,
Galang)

LATE ARRIVAL: 1 (Lalwani)

Motion to approve the following consent calendar as submitted
with staff recommendation and special conditions:

3. **USE PERMIT NO. 1547-AMENDMENT:** Add beer and
wine to existing restaurant at 1747 N. Milpitas Boulevard
(APN: 022-02-005). Applicant: Raman Deep Chiber. Project
Planner: Troy Fujimoto, 586-3287. *(Approved)*.

M/S: Williams/Sandhu

AYES: 6 (Hay, Nitafan, Chua, Sandhu, Williams,
Galang)

LATE ARRIVAL: 1 (Lalwani)

PUBLIC HEARINGS

4. **Review on Garbage Violations, Milpitas Shopping
Center**

Project Planner Fujimoto presented a status report on
garbage violations at the Milpitas Shopping Center located
at S. Abbott Avenue at W. Calaveras Boulevard.

Vice Chair Nitafan asked why the garbage bins were located in the parking lot. Mr. Fujimoto replied that the BFI charges a fee if they have to take garbage bins out of an enclosure, the owner doesn't want to pay a fee so the bins are left in the parking lot for easy access.

Commissioner Chua asked what triggered the City to report this garbage issue to the County Health Department. Mr. Fujimoto said that staff had discovered health code violations on previous site visits. Ms. Chua asked why this shopping center is being singled out and commented that the same problem must exist at other shopping centers. Mr. Fujimoto said that this shopping center is required to satisfy special conditions of approval before they can get the Building Permit that they are requesting. Ms. Chua asked if staff is satisfied with the property owner's compliance with the issues that are being presented to him. Mr. Burkey stated that while staff is never satisfied until all violations are taken care of, staff is pleased to note that progress is being made.

Chair Hay stated that the quandary for him is that the backyards are a short distance of about 5-feet from the garbage bins and neighbors have complained to the Planning Commission in the past about odor issues. Mr. Hay commented that the property owner needs to take the responsibility to make sure that the tenants maintain the property. Mr. Hay asked for clarification of the conditions of approval for those two restaurants. Mr. Fujimoto replied that one of the restaurants has a use permit that was issued before the City incorporated, and has no special conditions and that while the other restaurant has a use permit with the City of Milpitas, the special conditions that they have are not as stringent as the special conditions that have been placed on other restaurants throughout the City recently.

Commissioner Chua commented that there is no incentive for the owner to take any actions because the rent is being paid.

Commissioner Williams said that in his opinion the property owner is not taking a proactive approach to address this problem and resolve it.

Vice Chair Nitafan asked if staff could enforce a timeframe on resolving the issue. Mr. Fujimoto said yes, they could enforce a timeframe.

Commissioner Sandhu asked if they have dealt with the property owner directly. Mr. Fujimoto said yes they have talked with the property owner. Mr. Sandhu asked if they have thought about moving the garage bins to another location. Mr. Fujimoto said that because the shopping center is two parcels, the only area that it can be located in is the northern section where it is now because the southern end parcel belongs to another property owner. Mr. Sandhu asked if they could take out any parking spaces to make room for the garbage bins. Mr. Fujimoto said that they don't have any excess parking and need to keep the parking spaces that they have now.

William Cilker Jr., property owner, 1631 Willow Street #225. San Jose, CA 94536, said that he wanted to clarify that he has not collected any rent from the tenant. Mr. Cilker commented that when staff inspects the property they only give a brief report and don't ask how long garbage has been sitting there or why it is sitting there and noted that the pot of grease that was sitting out was put out to cool before it could be thrown away and the garbage is stored in a closed plastic bag before it is put outside. Chair Hay said that the Planning Commission thought the restaurant owner was paying rent because it was stated as such in the staff report.

Natta Tannitad, restaurant owner, said that she never indicated that she was paying rent, she said she was paying for her restaurant supplies and also had signed a property lease and paid a security deposit.

Vice Chair Nitafan asked if staff contacts the property owner before they do a site check. Mr. Cilker said that he is not contacted before the site check. Mr. Fujimoto said that the site checks are at random occurring on different days and different times of the week.

Commissioner Chua apologized to Mr., Cilker for the misinformation the Planning Commission received regarding the rent issue and asked what it would take to clear up the one outstanding issue. Mr. Cilker said that he isn't clear on what the problem is because the garbage containers are put out at night and picked up every morning and he doesn't know what else he can do. Mr. Chua said that the exposed garbage bins are the issue. Mr. Cilker said that the garbage bins are located way in the back. Mr. Fujimoto explained that the violation is that no garbage bins are to be in public site and these bins can be seen from South Abbott.

Chair Hay apologized to Mr. Cilker for any statements he might have made regarding the rent and asked Mr. Cilker if he was the property when it was first constructed. Mr. Cilker said no he was not and noted that it was built in 1960.

Ms. Tannitad said that she would like to have special condition no. 7 removed because it states that all conditions must be met before a use permit can be issued and she doesn't have control over the other tenants that share the site.

Dave Richerson, 1920 Yosemite Drive, said that he sympathizes with the property owner on the BFI services or lack of, and commented that the Planning Commission might rephrase the special condition to say that all conditions must be met that pertain to that applicants business.

Chair Hay said that he appreciates the situation being faced

by the applicant and also appreciates Mr. Cilker's attitude about cleaning up the area. Mr. Hay said they should acknowledge that all of the violations have been corrected as stated by staff with the exception of the garbage bins being located in the parking lot suggesting that this particular violation be removed from the conditions which would result in the conditions being satisfied and the applicant could be issued the building permit. Mr. Hay pointed out that the issue of compliance regarding the garbage bins being located in the parking lot isn't necessary to be tied to a special condition in this particular application, due to the fact that it is part of the City's ordinance.

Mr. Burkey explained that the applicant has been advised that the only way the condition of approval can be removed is for her to apply for it and for a public hearing to be conducted, which could be conducted at the March 14, 2001 meeting. Commissioner Chua asked if they could make a motion tonight. Mr. Burkey said that this is not a public hearing so the Commission can not make a motion to delete, amend or otherwise change the condition, they would need to go through the formal process to do so. Mr. Burkey went on to explain that because this condition was imposed on her particular use on that particular tenant space that should be interpreted as only applying to the conditions of her particular space. If the Commission is comfortable with that interpretation they can act and say that is their official interpretation which would allow staff to conclude that there is no particular violations with regards to trash bins for her particular space and at that time a building permit could be processed. If the Commission is not comfortable making that interpretation the applicant would have to come before the Commission on March 14, 2001 to delete the condition.

Vice Chair Nitafoan asked what staff's interpretation is of this special condition. Mr. Burkey replied that it was the interpretation of staff that it was the intent of the Commission for this condition to be applied to the entire

center. Mr. Nitafan said that it is his recommendation to the Commission to look at this condition separately and to continue to monitor the issue.

Chair Hay said that his intent at the time was that this condition did apply to the center as a whole and noted that the Commission has put staff and Mr. Clikier through a lot of grief because they were not clear enough with their motion. Mr. Hay added that his intent was regarding issues relating to what was behind the restaurants regarding grease, odor and cleanliness and had nothing to do with the dumpster being on the inside or outside of the enclosure.

Ms. Chua said that her main concern is that the issues of odor and any inconvenience to the neighbors are resolved.

City Attorney Faubion explained that if the applicant wants to have the condition removed it must happen at a noticed public hearing, however, as this discussion has proceeded it appears that the Commission's particular concerns have been resolved and that the outstanding issue here is not the one that the Planning Commission is concerned about. Ms. Faubion noted that it would be appropriate for the Commission to state that they were concerned about trash and that they were concerned about the entire center but not what was happening with the trash bin being in view and that they consider the conditions to be completed. Ms. Faubion suggested that the Commission make a motion and said that it should be noted for the record that the item was agendaized and the staff report was prepared for review of garbage violations at the Milpitas Shopping Center.

Motion to clarify that special condition no. 7 did not apply to the current violation, which has been identified by staff.

M/S: Chua/Nitafan

AYES: 7(Hay, Nitafan, Chua, Sandhu, Williams, Lalwani,
Galang)

Motion to note receipt and file.

M/S: Chua/Nitafan

AYES: 7 (Hay, Nitafan, Chua, Sandhu, Williams, Lalwani,
Galang)

Vice Chair Nitafan and Commissioner Chua abstained from voting on project nos. 1 and 2 due to a conflict of interest.

1. **Hillside Site & Architectural Review** *(A request to develop a 5, 979 sq.ft. one-story single family residence.)*

Project Planner Schmidt presented a request to develop a + 5,979 square foot one-story single family residence with attached garage and basement located at 1027 Calaveras Ridge Road.

Chair Hay opened the public hearing.

Takuo Kanno, 333 Bryant Street, Suite 200, San Francisco, asked the Commission if there were any questions. Commissioner Williams asked if the spaces about the living area open spaces or living spaces. Mr. Kanno replied that one is a storage and the other is a one bedroom.

Motion to Close the public hearing.

M/S: Sandhu/Williams

AYES: 4 (Hay, Williams, Sandhu, Lalwani, Galang)

ABSTAINED: 2 (Nitafan, Chua)

Motion to recommend to City Council approval of Hillside Site & Architectural Review subject to findings and special conditions.

M/S: Williams/Sandhu

AYES: 5 (Hay, Williams, Sandhu, Lalwani, Galang)

ABSTAINED: 2 (Nitafan, Chua)

2. **Hillside Site & Architectural Review** *(A request to develop a + 7,000 sq. ft. one-story single family residence).*

Project Planner Whales presented a request to develop a + 7,000 square foot one-story single family residence located at the northeast corner of Quince Lane and Evans Road.

Chair Hay opened the public hearing.

There were no speakers

Chair Hay stated for the record that this is an area where there have been slides in the past and the applicant is being asked to execute a hold harmless agreement to the City in case there sliding in the area.

Motion to close the public hearing.

M/S: Williams/Hay

AYES: 5 (Hay, Williams, Sandhu, Galang, Lalwani)

ABSTAINED: 2 (Nitafan, Chua)

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:46 PM to the next regular meeting of March 14, 2001.

Respectfully Submitted,

STEVE BURKEY
Secretary

KAREN RAMSAY
Recording Secretary

**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION MINUTES
March 14, 2001**

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and stated that it was the Planning Commission's intention to have a joint meeting with the Parks and Recreation and Cultural Resources Commission, however, the PRCRC did not have a quorum. The Planning Commission meeting was conducted with the PRCRC sitting in on the first item. Mr. Hay led the Pledge of Allegiance.

ROLL CALL

PC Present: Hay, Nitafan, Lalwani, Galang, Sandhu, Chua, Williams

PRCRC Present: McGuire, Tauson, Krommenhock

Absent:

Staff: Burkey, Ramsay, Fujimoto, Judd, Faubion, Guido

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, gave kudos to City Planning staff and the VTA Public Outreach program for implementing the recommendations that were passed on to them at a prior Planning Commission meeting in regards to the light rail construction in Milpitas.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of February 28, 2001.

Commissioner Lalwani pointed out that she arrived at the Planning Commission Meeting of February 28, 2001 at 7:45 PM and the minutes reflect a later arrival time.

Motion to approve the minutes of February 28, 2001 as amended.

M/S: Nitaflan/Galang

AYES: 7

ANNOUNCEMENTS

Vice Chair Nitaflan announced that the three honorees for the Citizen of the Year, Greg Montgomery, Police Officer of the Year James Geibig and Firefighter of the Year Ronald Bethke would be recognized on March 17, 2001 at the Milpitas Community Center.

Commissioner Lalwani announced the Chamber of Commerce would be hosting a State of the City luncheon on March 22, 2001 at the Crown Plaza Hotel.

Commissioner Sandhu announced that Sikh Foundation of Milpitas is holding a Community Breakfast at Sunnyhills Methodist Church on April 1, 2001.

Commissioner Sandhu asked for clarification on whether a PC Subcommittee member is allowed to make an individual recommendation or do recommendations need to be made at the Subcommittee meetings. Chair Hay responded that the City Attorney would be coming back to the Planning Commission with information on the process of meeting separately as a Subcommittee and the process for posting of the notice of the meetings.

Commissioner Sandhu announced that new Subcommittee members need to be assigned for the next quarter.

Commissioner Sandhu asked staff to look into the status of a piece of vacant land behind the homes on Conway Street in response to an inquiry from resident Balbir Singh Dham and to see what rights the residents have for the use of this land. Chair Hay noted that this was the Hetch-Hetchy right of way that the City was developing into a linear park and that no report back to the Commission was needed, but asked staff to inform Mr. Dham of this. Staff agreed to look into it and get back to Mr. Dham.

Chair Hay said that he has been invited by the VTA to participate in their upcoming process for the Silicon Valley Rapid Transit Corridor that would begin this month and

they would be conducting a major investment study that would be followed by a preparation of an EIR on a preferred investment strategy for the corridor.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Chair Hay added item no. 7 to the agenda to appoint new PC Subcommittee members.

Motion to approve the agenda as amended.

M/S: Nitafan/Sandhu

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Commissioner Chua requested that Item No. 4, Use Permit No. 1556, "a request to install a freestanding camouflaged telecommunications antenna and equipment enclosure at Milpitas Unified School District" be added to the consent calendar. Chair Hay asked if there was anyone in the audience that would like to discuss this item. Dave Richerson, 1920 Yosemite Drive said that he would like the item discussed. It was agreed that the item would not be added to the consent calendar.

Chair Hay opened the public hearing on consent item nos. 2 and 3.

There were no speakers.

Motion to close the public hearing.

M/S: Nitafan/Sandhu

AYES: 7

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

2. **USE PERMIT NO. 1581 AND "S" ZONE AMENDMENT:** A request to install 3 roof-mounted telecommunication antennas and install the equipment box inside the building at 341 Great Mall Parkway (Heald Business College; APN 86-24-036). Applicant: Sprint PCS. Project Planner: Jonelyn Whales, 586-3283 ***(Approved subject to findings with 5 special conditions).***
3. **USE PERMIT NO. 1203-AMENDMENT:** A request to approve a take-out restaurant with 53 seats at 55 North Milpitas Boulevard (APN 28-22-132). Applicant: Quizno's Classic Subs. Project Planner: Annelise Judd, 586-3273 ***(Approved subject to findings with 10 special conditions).***

M/S: Nitafan/Chua

AYES: 7

1. Public Hearing on Environmental Impact Assessment & Mitigated Negative Declaration for Coyote Creek Trail Project

Assistant Planner Judd presented to the Commission the environmental impact assessment the Coyote Creek Trail.

Vice Chair Nitafan asked if they would be recommending to the City Council tonight or would they be holding back their decision until the PRCRC was able to vote on the decision. Principal Planner Burkey explained that the Planning Commission and the PRCRC could make their recommendations at separate meetings.

Vice Chair Nitafan asked if surveys would be performed regarding owls and other species. Ms. Judd said that surveys regarding various birds would be performed.

PRCRC Chair McGuire asked the distance between Montague to Dixon. Ms. Judd said it is approximately 5.1 miles.

Commissioner Chua asked how the mitigation-monitoring program is tied in with the project plan and what is the timeframe. Public Works Supervisor Randisi said that in regards to the Coyote trail they have a grant on-line which is waiting for the CEQA documentation to be completed and all three Reaches are part of the Capital Improvement Program and they are scheduled to be completed over the next 3 to 4 years with Reach 1 to be completed first.

Chair Hay opened the public hearing.

Dave Richerson, 1920 Yosemite Drive, said that companies are encouraging employees in the area to make use of this trail and the city's citizens will get a lot of use out of the trail as well.

Rob Means, 1421 Yellowstone, said that from the transportation side this has the opportunity to direct commuter traffic to the trail and is an exceptional program that he is hoping would move forward.

Motion to close the public hearing.

M/S: Nitafan/Williams

AYES: 7

Motion to recommend to the City Council to find the Coyote Creek Draft Initial Study to be complete and to adopt the Mitigated Negative Declaration and Mitigation Monitoring Program.

M/S: Chua/Williams

AYES: 7

PUBLIC HEARINGS

4. Use Permit No. 1556 (*camouflaged antenna, Milpitas Unified School District*)

Mr. Guido replied that last year a large cylindrical monopole was proposed but was not supported and staff had requested the applicant to look for alternate sites or to redesign the project. Mr. Guido commented that staff feels this blends in with the parking lot and is not noticeable unless one is aware that it houses an antenna.

Commissioner Lalwani asked if it is the same height as other light poles. Mr. Guido said that it is 35-feet tall and others are 33-feet tall. Ms. Lalwani asked if it was a benefit for the school district. Mr. Guido said that it is a benefit in terms of providing lighting and lease income.

Commissioner Chua asked the dimensions of the proposed equipment enclosure. Mr. Guido said it is 12-feet wide by 24-feet long by 7.5-feet tall.

Vice Chair Nitafan asked for clarification of why the applicant could not find an alternate location. Principal Planner Burkey explained that staff encouraged the applicant to look at alternative locations for the antenna and they did find some perspective buildings but they could not get the necessary leasing arrangements.

Commissioner Galang asked if the proposed equipment is covered. Mr. Guido said that it has a wall around it and is open on top.

Commissioner Chua said that it blocks the view in and out of the entrance and asked if there is another location that they could put this equipment. Mr. Guido replied said that they choose the location that was most preferable to the school district and there are other buildings that they are planning to rebuild on the site so they wouldn't want to have to move it.

Ben Davies, representing the Sprint PCS applicant, said that their selection process is based on a combination of what fulfills their needs and the leasing arrangements of the site. Ms. Chua asked why the equipment is being placed by the walkway. Mr. Davies said that the equipment shelter has to be located close to where the antennas are going to be because there needs to be underground cable that goes from the equipment shelter to the antennas.

Chair Hay opened the public hearing.

Dave Richerson, 1920 Yosemite Drive, said that this is clearly not a monopole as far as what we were use to ten or fifteen years ago and we won't see many of those coming up in the future. Sprint has done an excellent job of reengineering this down to basically a parking lot light pole with an antenna sitting on top of it that seems to disappear into the background. Mr. Hay asked Mr. Richerson, who is on the Telecommunications Commission, what the Telecommunication Commission's opinion has been on the monopole issue in the past. Mr. Richerson said that the Commission overall has scrutinized monopoles very heavily and they tend to stay away from the aesthetic issues and stick more with the actual radio frequency issues and the physical logistics of where they are being installed.

Motion to close the public hearing.

M/S: Nitafan/Lalwani

AYES: 7

Chair Hay questioned whether staff has any back-up material to support the findings that this equipment is not detrimental or injurious neither to the surrounding development nor to the public's health and safety. Mr. Burkey s said that staff was informed that the California PUC prohibits local agencies from denying cellular phone sites because health hazards have not been documented. Chair Hay asked if staff could bring back some documentation on this issue.

Motion to approve Use Permit 1556 subject to findings with 9 special conditions.

M/S: Williams/Lalwani

AYES: 7

5. Use Permit 1576 (*Islamic Center, parking requirements*)

Junior Planner Guido presented a request to operate a religious assembly use and modification to the parking requirements to allow for joint parking agreements to exceed 50 percent of the required off-street parking, located at 533-535 Sinclair Frontage Road.

Commissioner Lalwani asked if the Islamic Center was operating on weeknights. Mr. Guido said that they had assemblies on Sundays.

Chair Hay asked if the applicant was operating without a use permit due to an oversight or because they were unaware that a use permit was required. Mr. Guido said that he doesn't know if the applicant was aware that they needed a use permit or not but it was brought to the City's attention via Code Enforcement staff. Mr. Hay asked if they have been cooperative since. Mr. Guido said that they have been cooperative and submitted an application in October, however clarification needs to be made on the site plan to determine the amount of area that would be assembly. Mr. Hay said that they are purposing to operate a religious assembly for gatherings up to 45 persons and asked if the proposed conditions allow that number of people. Mr. Guido said that 45 persons works out to about 3 to 4 persons per vehicle and the parking standard for churches is one parking space per five seats, noting that staff also asked for parking supply and demand counts. Mr. Hay asked if the members of the Owners Association concur with the conditions of approval. Mr. Guido said that members of the Owners Association are generally concerned about parking issues and liability issues that might arise and for those reasons staff has been specific to restricting assembly gatherings before 7:00 PM.

Commissioner Williams asked if it would be possible to apply a condition that the applicant would pay for parking signs so visitors would know which parking spaces they were allowed to use. Mr. Guido explained that during regular business hours those otherwise shared spaces would revert back to the normal day to day business use.

Commissioner Chua said that she is concerned that the conditions are so detailed that it appears to be micro managed.

Vice Chair Nitafan said that he is concerned that it would be too crowded because they are using 1600 square-feet of space to assemble 45 people. Mr. Hay asked what the fire code limitation is on 1600 square-feet for an assembly. Mr. Guido said that the fire code limitation is 50 persons.

Commissioner Chua stated that 14 parking spaces are needed and they only have five and in order to get the use of the other nine that is required they have to get the agreement from the other owners and questioned whether they have that agreement. Mr. Guido said that they have recorded agreements for 10 other spaces, however, those agreements have not received the City Attorney's approval noting that the City Attorney has reviewed them and has suggested alterations to which the applicant would be subjected if this use were approved. Ms. Chua asked if they have a parking agreement with the owners. Mr. Guido said that they have agreements with owners that have not been approved by the City Attorneys office.

Commissioner Lalwani asked if all they are waiting for is the City Attorneys approval. Mr. Guido explained that the City Attorney wants the joint parking agreements to be in a format that is different than those already attained.

Commissioner Sandhu said he doesn't think that they would have any problem with the parking because the owners have already agreed on shared parking.

Peter Jacobson, Architect, said that he was brought into the picture last year when the church realized that they were operating without a permit and asked him what they should do. Mr. Jacobson said that the traffic study shows that after 7:00 PM there is really no activity in the industrial park and they are only requesting to operate Thursday evenings and on Sunday.

Chair Hay opened the public hearing.

Rick Arce, business owner, said that his biggest concerns are the conversion of two spaces to one handicap space because overall parking is limited and insurance liability because it is common property. Mr. Arce commented that they have always had parking signs for visitors.

Mr. Chin, Pastor of Chinese Gospel Church, said that in 1995 the City issued them a use permit to allow them to hold a meeting from 7:00 AM to operate in the same complex on Sunday's from 7:00 AM to Midnight.

Mary Kay Oster, Property Association Manager and business owner, said that her two suites are facing the units in question and she has been operating her businesses for the last twelve years and has been the Association Manager for the last four. Ms Oster stated that there are ten owner agreements for parking, of the signatures that appear on the petition of support only six are owners the rest are tenants and she is concerned about non compliance with business regulations. Ms. Oster presented a picture to the Planning Commission showing all the parking spaces occupied on a Friday at noon and stated that as Association Manager she has to abide by the decisions of the Board of Directors and when there is parking problems she has to enforce regulations. Lastly Ms. Oster said that they would suggest as a Board that Thursday after 7:00 PM would be a time that would possibly work for the owners.

Chair Hay asked how many spaces are allotted for each unit. Ms. Oster said that each unit has two spaces. Mr. Hay asked if it is Ms. Oster's responsibility as Manager to enforce the CC&R's. Ms. Oster said yes that it is her responsibility to enforce it. Mr. Hay referred to the photo and asked if the cars belong to the owners or to people going to other businesses. Ms. Oster said that most of them were from the Islamic Center.

Commissioner Chua asked what constitutes a voting member in the Association. Ms. Oster said that you become a voting member by buying a suite and each suite has one vote. Ms. Chua asked if the applicants are aware of the CC&R's and the regulations of the Board and the HOA. Ms. Oster said yes they are, they had to sign the CC&R's and commit to follow them. Ms. Chua said that they are trying to find a solution and asked Ms. Oster what she thought the solution would be. Ms. Oster said that the solution would be to allow them parking Thursdays after 7:00 PM and Saturdays after 4:00 PM which would not conflict with the other businesses and added that Sunday would conflict with the recorded agreement.

Commissioner Lalwani asked if they were informed of the special event that was

taking place when the photo was taken. Ms. Oster said that they were not informed.

Chair Hay asked if the agreement is drafted by the City. City Attorney Faubion said that the City Attorneys office using a standard template drafts the agreement but the City Attorney does not negotiate between the two parties.

Chair Hay asked if the conditions that have been suggested by City staff is in conflict with the CC&R's.

Stephanie Hays, Attorney, said that there are no expressed conflicts between the staffs conditions and the CC&R's adding that there is a particular provision in the CC&R's which contemplates and permits the ability of owners to enter into shared parking agreements with other owners. Ms. Hays said that the owners that enter into that agreement have to give notice to the association along with the identity of the particular parking space that the applicant is being given use of. Ms. Hays pointed out that this is a commercial condominium complex, which each owner owns title to individually owned units and additionally each owner has ownership of the common area.

Commissioner Chua stated that an agreement should be presented to the Commission that has been approved by the property owners, by the applicant and by the Home Owners Association. Ms. Chua questioned what supercedes, the CC&R's or the conditions of the use permit. City Attorney Faubion stated that the CC&R's are a private agreement between the property owners, therefore the City is not a party to the CC&R's and has no enforcement or participation in them at all.

Chair Hay commented that they already have an agreement but it doesn't happen to be in accordance with the form that is approved by the City and the agreement that they do have would be superceded by an agreement that is acceptable to the City because it would be part of the conditional use permit if we approve it.

Commissioner Chua said that her interpretation is that they do not have an agreement because it has not been approved.

Vice Chair Nitafan said that there would be a dilemma if there were a change of ownership for a unit.

Attorney Hays agreed with Mr. Nitafan and pointed out that the CC&R's specifically

provide that any such agreement would terminate upon conveyance of the unit.

Commissioner Lalwani commented that it seems that this has come before the Planning Commission prematurely.

Asgar Padash, church member, said that they asked the City what they needed to do to get a use permit and they were told that they had to have a shared parking agreement in place. Mr. Padash said that the City gave them a copy of the existing parking agreement of the Chinese church, with which they took an exact copy and went to three owners for signatures and now the City is saying that they have a new format.

Commissioner Chua pointed out that they need to present all of their solutions to the homeowners.

Steve Bahr, owner, 545 Sinclair Frontage Road, said that the owners are assuming risk, they have had problems with children on the roof and if they fall off the roof the owners are at risk. Mr. Bahr said that 87% of the owners have not given their approval at this point and noted that they have asked them for a proposal of their intended use and have not received one.

Dr. Algar said that they don't allow their children to play in the parking lot as they have better places to play. Mr. Algar said that they will do whatever it takes to meet the City's needs and they would like to get approval on a conditional basis.

Dave Richerson, 1920 Yosemite Drive, said that this is a conditional use permit and in order to grant certain parking requirements have to be met and until it is permitted this use shouldn't be allowed to continue.

Motion to close the public hearing.

M/S: Chua/Nitafan

AYES: 7

Commissioner Chua asked the City Attorney what the Commission is obligated to do at this point now that they know that this business is operating without a use permit. Ms. Faubion stated that it appears that there is a use that is operating without the permits that are required and the applicant has requested the permit that would

validate that use. Ms. Faubion said that the City could take an enforcement action under its normal code enforcement procedure

Motion to postpone the conditional agreement to a future date.

M/S: Lalwani/Nitafan

Amended motion to resolve the legal issues and come up with a joint agreement and continue to a future date.

M/S: Nitafan/Lalwani

Amended motion that the homeowners, the Chinese church and the City of Milpitas are all represented in the agreement and to continue to a future date.

M/S: Chua/Lalwani

Chair Hay said that he agrees with all of the concerns that have been brought forth however, those concerns are what the Commission is supposed to consider when reviewing a conditional use permit.

Motion Withdrawn by Commissioner Lalwani.

Commissioner Nitafan retracted his second.

Commissioner Chua said that she would like to amend condition no. 3.

City Attorney Faubion suggested that the wording for that condition could be changed to require the parking agreement be executed by the applicant and other property owners and with the participation of the Owners Association as manager of the common area.

Vice Chair Nitafan requested that they also add that they shall maintain 9 spaces at all times.

Chair Hay said that issues is already address in condition no. 3.

Commissioner Chua asked why condition no. 2 allows joint parking agreement to satisfy up to 65% of the parking requirement instead of 50%. Mr. Burkey explained that the zoning ordinance permits people to occupy a building with less parking than necessary if they can show that they have joint parking agreements, that the parking ordinance requires a maximum of only 50% of the required parking can be met through parking agreements, and that the use permit procedure allows an applicant to vary from those requirements

Motion to approve the amendment of condition no. 3.

M/S: Lalwani/ Sandhu

AYES: 7

Motion to postpone item no.6.

M/S: Lalwani/Sandhu

AYES: 7

NEW BUSINESS

6. Presentation on Parking at the Great Mall

The Great Mall Parking presentation was postponed.

7. Subcommittee Selection Process

It was the consensus of the Commission that the Planning Commission Subcommittee members for the spring quarter, starting April 11, 2001 would be Commissioners Chua and Lalwani, with Commissioner Galang as the alternate.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:35 PM to the next regular meeting of March 28, 2001.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY
Recording Secretary

**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION MINUTES
March 28, 2001**

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 6:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Lalwani, Galang, Sandhu, Chua, Williams

Late Arrival: Nitafan

Staff: Burkey, Ramsay, Fujimoto, Faubion, Guido, Lindsay

Chair Hay shared the sad new that former Planning Commission Chair Bill Rush passed away last weekend after suffering a massive stroke and informed the public that memorial services would be held on April 1, 2001 at the Milpitas Bible Fellowship.

Renaissance Hotel

Public Review Hearing on Draft Environmental Impact Report

James Lindsay introduced Phyllis Potter from EDAW who reviewed the environmental review procedures and the main points of the draft environmental impact report for a six-story, 362-room hotel proposed at the northwest corner of Barber Lane and Alder Drive.

Commissioner Williams asked why no specific information was provided regarding the mid-day parking patterns. Ms. Potter replied that the parking survey was done by the traffic consultant and it was determined that noon was the highest peak demand period. Mr. Lindsay pointed out that the draft EIR was on page 4.1-21, table 4.1-6 and noted that was an analysis of the trip generation estimates for the noon hour and that page 4.1-23 shows some of the directions and approaches as far as the distribution. Mr. Williams said that he is concerned that there is no cross-referencing analysis from independent studies.

Commissioner Sandhu asked how many employees would be working at the hotel and commented that there are 362 rooms and 375 parking spaces. Mr. Lindsay said that Western International could better answer that question and added that the operational analysis within the EIR takes into account all of the uses that occur within a hotel environment. Mr. Sandhu asked if agreements had been made with VTA. Mr. Lindsay said that there is not an agreement with VTA, but it has been included as a potential mitigation measure if necessary. Mr. Sandhu asked if the Park and Ride would be completed this spring as noted in the staff report. Mr. Lindsay said that it is very near completion.

Commissioner Galang asked if there would be a charge for underground parking. Mr. Lindsay said that fee parking is not part of the project proposal.

Commissioner Chua said that she would like to see each of the solutions presented for the EIR mitigations. Mr. Lindsay said that staff would fully document that in the final EIR.

Chair Hay stated that the analysis report indicates that while the proposed project would not cumulatively contribute to the current electrical shortages in a substantial manner given the size of the project relative to the larger supply and demand challenges, the analysis does not identify what the projects electrical usage is. Mr. Hay said that he strongly disagrees that this is an adequate statement in the draft EIR and that it needs to be studied as does every other project that comes before the Planning Commission. Mr. Hay went on to comment on the onsite circulation analysis and noted that he studied it in detail and was frustrated that it did not contain adequate information that was needed to complete the review of this document and stated that the Planning Commission needs to be given the appropriate documentation well before the night of the Planning Commission meeting.

Mr. Lindsay said that for purposes of clarification the documents that were provided this evening within the draft EIR contained footnotes that state that the documents are available at the City. Mr. Hay recommended that staff put this package together appropriately, completely and without bias and re-circulate it.

Tom Mastor of Western International, 12859 Spurling Drive #114, Dallas Texas said he would answer any questions. Commissioner Chua asked what is the closest Renaissance Hotel to the city of Milpitas that is currently in operation. Mr. Mastor said that the Renaissance Hotels are operated by Marriott International and that the Renaissance flag is relatively new to Marriott.

Commissioner Galang asked what kind of restaurants the hotel would have. Mr. Mastor said that they would have a full service three-meal restaurant and, a boutique restaurant that would be upscale dining. Mr. Galang asked the hours of operation of the restaurants. Mr. Mastor said that the full service restaurant would run from 6:30 a.m. to 11:00 p.m. and it is hopeful that the boutique restaurant's hours would be noon until 9:00 or 10:00 p.m.

Commissioner Williams asked if they would be providing any meeting rooms or rooms for special events. Mr. Mastor said that they are proposing 18,000-sq. ft. of meeting or banquet space.

Chair Hay opened the public hearing.

David Richerson, 1920 Yosemite Drive, said that he concurs that there are inadequacies in the document and went on to point out where they were. Mr. Richerson said that this study should state what the complete maximum building occupancy limits would be for this project.

Chair Hay noted that the Commission received a letter with comments that pertain to this project from Gary Hagman, General Manager of the Sheraton Hotel in San Jose requesting that it be read for the record. Mr. Hay explained that letters are not usually read for the record due to the large quantity of letters received.

Commissioner Chua asked Mr. Mastor if they believed they could be successful with only half of the parking spaces that are required. Mr. Mastor said that it is in their best interest to have adequate parking to keep their guests satisfied and wouldn't recommend parking that they felt was inadequate. Ms. Chua asked that at the next meeting Mr. Mastor and staff bring examples of other hotels that have similar dimensions as far as rooms and parking spaces as the hotel that is being proposed.

Chair Hay said that his concern is process and that before he can make any decision on this project he needs to see Mr. Mastor analysis. Mr. Mastor said that the only factual part of the three analyses is the City requirements, the Fehr and Peers study is very subjective.

Commissioner Williams said that looking at the traffic study report there is a gross error that shows parking where there is no parking permitted on the street which makes him suspicious about the rest of the content, therefore he has too many

questions to make a decision tonight.

Vice Chair Nitafan echoed Mr. Williams comment regarding parking.

City Attorney Faubion pointed out that this is not a public hearing on this project and the Planning Commission is not making a decision tonight and mitigation measures have been identified in the draft EIR and it would be appropriate for the Planning Commission to suggest that staff and the applicant consider other mitigations or other activities that might not be reflected in the mitigation measures.

Chair Hay said that he would like to see the public hearing continue until such time that they have adequate time to review these documents and comeback and complete their questions.

Principal Planner Burkey stated that they are in the middle of a 45 day public review period and the public review of the draft EIR is not going to end at tonight's meeting and noted that this is a meeting to allow the public the opportunity to make verbal as well as written comments and that there will be an opportunity for further hearings on this matter when the final EIR revised. Mr. Burkey added that it has been common practice for staff and the Commission not to receive EIR's with all of the technical data, with the note that it was available for them should they want it. Mr. Hay said that he doesn't believe that the document is complete or adequate and the process itself hasn't been as it should be and he can't provide the comments he is being asked to provide without this information. Mr. Burkey reminded the Commission that this is not meant to be the final hearing for comments on the EIR.

Vice Chair Nitafan stated that he also would not be able to make a decision tonight.

Commissioner Chua said she would like to see an analysis on mitigation measures and the perceived impacts to lowering the significance of the parking issues and also a comparison of other hotels.

Chair Hay said that they have been given a biotic report and preliminary geo technical investigation and the revised final report traffic impact analysis. Mr. Hay asked if there were any other backup documents that were part of the preparation of the draft EIR. Mr. Lindsay replied that one report that was not mentioned which is referred to was the phase one environmental site assessment report.

Motion to continue the public hearing to the April 11, 2001 meeting.

M/S: Sandhu/Williams

AYES: 7

RECESS

Chair Hay called a 15 minute recess at 7:40 PM

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive said he would strongly encourage every Commissioner on every Commission to put the time and effort in on the materials that are presented to them prior to an item coming before their Commission for a decision.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of March 14, 2001.

Motion to approve the minutes of March 14, 2001 as submitted.

M/S: Nitafan/Galang

AYES: 7

ANNOUNCEMENTS

Principal Planner Burkey announced that the presentation on the Great Mall parking would be presented at the meeting of April 25, 2001.

Mr. Burkey announced that he had follow-up information regarding Commissioner Sandhu questions on Subcommittee meeting and said that the Subcommittee can call special meetings, however, they must be posted 72 hours in advance and all Subcommittee members must be present.

Mr. Burkey also noted as a follow-up to concerns expressed at the last meeting regarding radio frequencies at the Milpitas Unified School District site monopolized that

the City is preempted from setting higher standards than those of the FCC or California Public Utilities Commission.

Commissioner Galang announced that he attended the Planners Institute in Monterey and found it to be very educational.

Commissioner Sandhu invited everyone to attend the Sikh Foundation Community Breakfast.

Chair Hay announced that he and Vice Chair Nitafan also attended the Planners Institute in Monterey and found it to be very enlightening.

APPROVAL OF AGENDA

Chair Hay suggested that the study session on the Renaissance Hotel be moved to the end of the agenda and called for approval of the agenda as amended.

Motion to approve the agenda as amended.

M/S: Nitafan/Chua

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Chair Hay removed consent item no. 2 from the consent calendar.

Chair Hay opened the public hearing on consent item no. 1.

There were no speakers.

Motion to close the public hearing on item no. 1.

M/S: Nitafan/Chua

AYES: 7

Motion to approve the consent calendar as submitted with staff recommendation and

special conditions as follows:

1. **USE PERMIT NO. 1582:** A proposal to operate tanning and waxing services in conjunction with beauty salon in the Great Mall, at 440 Great Mall Drive (APN 86-24-33). Applicant: Nguyet Le Truong. Project Planner: Annelise Judd, 586-3273. ***(Approved subject to findings with 10 special conditions)***

PUBLIC HEARINGS

2. **Use Permit No. 1579** *(a new 35 foot tall church steeple-tower)*
Junior Planner Guido presented a proposal to construct a new 35-foot tall church steeple-tower with a 14-foot tall cross that has a telecommunications antenna concealed within it, and a telecommunications equipment enclosure located at 875 South Park Victoria Drive. Principal Planner Burkey pointed out to the Commission that there is no height limitations for steeples.

Commissioner Chua asked if this is the first antenna that has come to the Planning Commission that is hidden inside a structure. Mr. Guido said that City staff is encouraging telecommunication companies to place antennas behind or inside materials in such a way that they would blend in with the environment. Commissioner Williams commented that they have approved a concealed antenna system where Life Scan is.

Chair Hay opened the public hearing.

Bill Barnes, 848 Platt Court, asked if there is any plan to light up the cross in the evening and is there any decibel reading on the amount of sound coming out of the equipment. Mr. Guido stated that the cross is not proposed to be lit and he is not aware of there being noise from the equipment enclosure.

Paul Yang, 868 Fellen court said that he is concerned about the height of the cross which is about five stories high.

John Suntello, resident that lives behind the church commented that the cross is not intended to be used for the purpose of an antenna.

Ben Davies, zoning consultant for Sprint PCS representing the applicant, said that the City informed them that putting a cross alone on the roof would not be architecturally integrated well enough with the building and regarding the noise, the equipment cabinets do generate noise but is not constant. The Church likes the design and the City the church and Sprint feel that this design complements the building.

Chair Hay asked the location of the equipment. Mr. Davies said it is located behind the church.

Commissioner Chua asked if there was another location that would be appropriate other than this location. Mr. Davies said that they choose the Fire Station first but Fire didn't want it there.

Commissioner Williams asked what the distance from the equipment cabinet to the nearest home.

Bill Patterson, Pastor of the Baptist Church, said the enclosure is between two buildings, the nearest houses are the ones that are due south and there is a 7 or 8 foot fence separating the homes and the church.

Commissioner Chua asked if the cross would be considered a sign. Mr. Burkey stated that crosses or any religious symbols on churches is part of the architecture.

Chair Hay commented that structures that are permitted above height limit are not an issue.

Motion to close the public hearing.

M/S: Nitafan/Williams

AYES: 7

Commissioner Chua said that she would like to amend special condition no. 5 to require insulation of the equipment. Mr. Burkey suggested that the condition

be worded to say that the building permit is required to submit evidence that the noise enclosure will be mitigated to not exceed the Noise Element standards.

Motion to approve Use Permit No. 1579 subject to findings with 10 special conditions with a revision to condition no. 5 that requires the applicant to insulate the equipment and that the building permit is required to submit evidence that the noise enclosure will be mitigated to not exceed the exterior noise standards contained in the Noise Element.

M/S: Lalwani/Sandhu

AYES: 7

Study Session for Planning Commission

James Lindsay introduced Patrick Kinser, Architect with Merriman Associates who presented a proposal for a full service Renaissance Hotel at the northwest corner of Barber Lane and Alder Drive.

Commissioner Williams asked to what depth did they conduct core drilling on the site. Mr. Kinser said it was over 100-feet. **Nick Nash**, Architect with Merriman Associates, said that they want to keep the garage foundation above the liquid layer of soil.

Commissioner Sandhu asked if any of their other hotels were more than six stories. Mr. Mastor said not in California. Mr. Sandhu asked what floor do the rooms start. Mr. Nash said that the rooms start on the second floor.

Commissioner Galang asked if the Ballroom is on the first floor. Mr. Nash said yes the Ballroom is on the first floor.

Commissioner Chua said that she likes the design and commented that they use a lot of bronze and asked how it would be maintained. Mr. Kinser said that it has a baked on finish that is not paint and has a long life span.

Vice Chair Nitafan said that he is concerned that there is no elevator at the northwest end of the building.

Chair Hay said that this is an upscale hotel and would be a nice addition and added that it is large but proportionate and the fountain in front is outstanding.

Linda Gates, landscape architect for the project, presented a proposal for the hotel landscaping.

Commissioner Galang asked how many tables could be set up in the banquet area. Ms. Gates said approximately 600.

Commissioner Williams asked what kind of landscaping would be viewed from the light rail. Ms. Gates said that the view would be trees and hedges.

Commissioner Galang asked if the residents could use the pool for medical reasons. Mr. Mastor said he is not prepared to answer that question at this time.

Vice Chair Nitafan asked about the signage plan. Mr. Kinsley said that they have signage off of 880.

Commissioner Williams stated that the architectural design reflect high standards and added that he is concerned about the banquet area size and how many seats it would accommodate and he would like to see more than just greenery.

Commissioner Sandhu said that it is a good project and design and his concern is the parking.

Commissioner Galang said that he echos Mr. Sandhu's comment.

Commissioner Chua said that she likes the design and the landscape.

Vice Chair Nitafan said his concern is that there is no elevator on the northwest end of the building.

Chair Hay asked if there is a possibility of on-street parking. Mr. Lindsay said they are looking at the possibility of on-street parking.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:00 PM to the next

regular meeting of April 11, 2001.

Respectfully Submitted,

STEVE BURKEY
Secretary

KAREN RAMSAY
Recording Secretary

**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION MINUTES
April 11, 2001**

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Lalwani, Galang, Sandhu, Chua, Williams

Absent:

Staff: Burkey, Fujimoto, Whitnell Guido, Lindsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, welcomed home the 24 service men that are on their way home from China.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of March 28, 2001.

Motion to approve the minutes of March 28, 2001 as submitted.

M/S: Nitafan/Williams

AYES: 7

ANNOUNCEMENTS

Principal Planner Burkey announced that there would be a reorganization taking place

in the Planning Division effective April 23, 2001 and noted that he would be voluntarily taking a Senior Planner position and Tambri Heyden from Las Vegas, has been hired to fill a newly created Planning Manager position. Chair Hay thanked Mr. Burkey for his support as Principal Planner over the last year.

Mr. Burkey also announced that it has been suggested that the Planning Commission and staff would be starting a project-training program to improve the decision process. Mr. Hay commented that the League of California Cities offers local project workshops that would be beneficial to staff and the Commission.

Commissioner Sandhu said that it would be helpful to him if the project-training meetings were held on Saturday or Sunday, as it is difficult to get away during the weekdays. Mr. Sandhu announced that the Sikh Foundation of Milpitas hosted a community breakfast at the Sunnyhills Methodist church on April 1, 2001 and he thanked all who attended.

Commissioner Galang announced that he would be unable to attend the April 25, 2001 Planning Commission meeting because he is attending the 93rd Annual Filipino Dental Association Convention in the Philippines.

Commissioner Nitafan commented that meetings with Planning Commissions from neighboring cities would be beneficial.

Commissioner Lalwani announced that on May 23, 2001 Milpitas Chamber of Commerce is organizing a business seminar and County Supervisor Pete Mc Hugh would be the guest speaker.

Chair Hay announced that as a result of a meeting to discuss transportation issues and procedures, the City's Transportation Subcommittee, which is composed of the Mayor and Council member Lawson, have extended an invitation to the Chair to serve with them on that subcommittee. Mr. Hay said that they had requested information from staff regarding the transportation consultant selection process and asked for an update on that. Mr. Burkey reported that it was his understanding that a memo had been prepared regarding the transportation consultant selection process and that he would make sure that it is sent out.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Lalwani/Nitafan

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item. There were none.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

1. **SITE AND ARCHITECTURAL REVIEW:** Final Feasibility Report for Coyote Creek Trail Project, east levee of Coyote Creek, between Dixon Landing Road and Montague Expressway (APN: 22-29-21, 22-30-5, 86-43-2, 86-1-19, 86-3-3). City initiated. Project Planner: Annelise Judd, 586-3273. ***(Approved subject to findings with 4 special conditions)***.

Chair Hay opened the public hearing on consent item no. 1.

There were no speakers.

Motion to close the public hearing on consent item no. 1

M/S: Nitafan/Sandhu

AYES: 7

Motion to approve the consent calendar.

M/S: Nitafan/Chua

AYES: 7

PUBLIC HEARINGS

2. Site and Architectural Review-Amendment

Junior Planner Guido presented a proposal to delete the requirement for screening of roof top equipment at 722 South Main Street (Jain Temple).

Commissioner Chua asked what the applicant's objection is to this proposal. Mr. Guido said that he believed the applicant feels that a screen would detract from the architecture of the building, which is designed with very high standards. Ms. Chua asked if there is a safety issue. Mr. Guido said he is not aware of any safety aspect.

Commissioner Sandhu asked if there is a concern that this project is not in accordance with the two resolutions. Mr. Guido replied that there is a condition of approval on the original "S" Zone specifically requiring screening and also noted that the General Plan and statements regarding the need for attractive development and City Council Resolution No. 6932 directs the Commission to employ high standards for buildings in the Midtown area.

Commissioner Williams asked if all other conditions of approval had been met by the project. Mr. Burkey said that all the conditions have been met except for what is being presented tonight.

Commissioner Nitaflan asked if a condition of approval required the screening. Mr. Burkey said screening of the equipment was a condition of this project.

Kartik Patel, project architect, said that the design of this building incorporates a lot of Jain culture and a lot of architecture that is not typically seen in this country. During the design phase they took into account a very careful placement of the mechanical units so that they are not visible from South Main Street and to provide screens on top of the roof would only detract from the building and architecture.

Commissioner Lalwani said that they all agree that this is the finest monument in the City of Milpitas and asked if they don't want to screen the equipment for

aesthetic, religious or financial reasons. Mr. Patel said his reason as the architect is for aesthetic reasons.

Commissioner Chua asked Mr. Guido to describe the photographs he had taken of the rooftop equipment and if it was visible from the public right-of-way. Mr. Guido presented nine different photographs to confirm the equipment could be seen from the public right-of-way.

Commissioner Sandhu asked if this equipment is visible from a vehicle. Mr. Burkey confirmed that he was able to see the equipment from his vehicle.

Commissioner Williams asked if both streets and the public park would be considered part of the public view of this structure. Mr. Burkey said yes, but staff has not viewed the equipment from either Curtis Avenue or the new park being built as part of the Park Metro project.

Chair Hay opened the public hearing.

President of the Jain Center, 1019 Salvantas Court, said that they concur with Mr. Patel's views.

Nima Gujar, 200 Owl Court, Fremont, CA., said that they have tried to fulfill the requirement of the Planning Commission and their own goals as well.

A member of the Jain Church who also works for PG&E said that he inspected the mechanical equipment for energy purposes and his personal observation is that adding a screen could also cause a safety problem such as birds getting caught in the screen and suggested that the equipment be left as it is.

John Spaur project architect, 2033 Concourse Drive, San Jose, said that he is an architect and in his professional opinion putting up a screen would detract from the building and suggested that painting the unit would work very well.

Resident, 1384 Prada Court said that he has never noticed the equipment when driving by the building.

Dave Richerson, 1920 Yosemite Drive, said that the issue is not whether to

put a screen up or not to put a screen up, the issue is whether or not to leave mechanical equipment that does not meet the original plans and drawings and had the mechanical contractor installed the equipment per the plans and specifications there would not be an issue. Mr. Richerson suggested that one large equipment could be replaced by 2 smaller units.

Motion to close the public hearing.

M/S: Nitafan/Sandhu

AYES: 7

Commissioner Lalwani suggested that staff present a computer enhancement to see how the screened equipment would look. Commissioner Lalwani asked staff what staff would do if a proposed screen does not look appropriate for the building. Mr. Guido replied that staff would work with the applicant to propose the best possible design, and that re-design could potentially be requested and that material that doesn't go with the building would likely not be approved.

Commissioner Chua agreed with Ms. Lalwani and said that staff should come back with an alternative.

Vice Chair Nitafan said that he supports staff's denial of this project.

Commissioner Sandhu said that he supports the applicant and said that the equipment should be painted so that they don't destroy the beauty of the building.

Commissioner Williams said he has always been a stickler for abiding by the resolutions and he agrees with staff recommendation of denial.

Chair Hay said that he concurs with the majority of his fellow Commissioners and supports staff's recommendation of denial.

Commissioner Chua said that something could be created for this building that could be a model for other buildings.

Motion to deny request to paint, instead of screen rooftop equipment and direct the applicant to submit plans for screening that complements the

building.

M/S: Nitafan/Chua

Amended Motion to allow the subcommittee the opportunity to review the condition for the screen design, and to defer to the planning commission if an appropriate screen design can be agreed upon, then the Subcommittee may approve the elimination of the screening requirement.

M/S: Nitafan/Chua

AYES: 5 (Nitafan, Chua, Hay, Williams)

NOES: 2 (Lalwani, Sandhu)

Recess

Chair Hay called a 10 minutes recess at 8:30 PM

Vice Chair Nitafan excused himself from the meeting at 8:30 PM.

3. Site and Architectural Review-Amendment

Project Planner Guido presented a proposal to allow rooftop equipment at 1601 McCarthy Boulevard to not be screened.

John Spaur, project architect, 2033 Concourse Drive, San Jose, said that when LSI vacated this building they removed all the rooftop equipment and equipment screens and noted that the majority of photographs that he took were taken from the public right-of-way and a couple were taken from parking lots. Mr. Spaur said that there are many incidents of exposed mechanical and electrical equipment that are visible on the buildings in the area and the request to paint the unit is appropriate. Mr. Spaur stated that consideration should be given to allowing visibility of a certain percentage of equipment.

Simon Westbrook, applicant, 1601 McCarthy Blvd., said that this is not a

landmark building like the Jain Temple and noted that this building has a parapet wall in the front, which is tall enough to hide 9 out of 11 of the units.

Dave Richerson, 1920 Yosemite Drive, said that issue is whether the units visible from the public right-of-way or not. Mr. Richerson said that they should go back to the contractor who didn't meet the requirement, that the equipment be screened.

Motion to close the public hearing.

M/S: Williams/Chua

AYES: 6 (Hay, Chua, Lalwani, Galang, Sandhu, Williams)

ABSENT: 1 (Nitafan)

Commissioner Lalwani said if this building was built in 1980 then why is the equipment screening issue coming to us now. Mr. Burkey said that when tenants change they usually apply for building permits for tenant improvements, which often include new rooftop equipment.

Chair Hay asked when the new tenant moved into this building. Mr. Guido said that records show that the new tenant contacted staff last September.

Motion to deny the "S" Zone Amendment.

M/S: Williams/Lalwani

AYES: 6 (Hay, Williams, Galang, Lalwani, Chua)

NOES: 1 (Sandhu)

ABSENT: 1 (Nitafan)

Chair Hay requested that staff review these specific incidences of inadequate screening and compliance issues that have been brought forward and report back to the Commission within 90 days on their status and any appropriate compliance effort.

4. Public Review Hearing on Draft Environmental Impact Report for the Renaissance Hotel

Project Planners Fujimoto and Lindsay reviewed the proposal to develop a six-

story, 362-room hotel located at the corner of Alder Drive and Barber Lane and the draft EIR associated with that project.

Chair Hay asked if the City provided the library with copies of the EIR-related background and technical reports. Mr. Lindsay said that there is just a copy of the draft EIR at the library.

Commissioner Sandhu said that it states in the phase 1 site assessment that it should not be relied upon after 180 days from the day of the report and pointed out that 180 days has already passed. Mr. Hay asked Mr. Lindsay to explain what that purpose of a phase 1 environmental assessment is. Mr. Lindsay explained that a phase 1 assessment is to take an overview of any soil/ground water contaminants that may be associated with the site or within the general vicinity.

Commissioner Williams asked what has been finalized as far as the quantity of parking. Mr. Lindsay said that while it is staff's estimation that the project would not have off-site parking impacts, however, based on similar uses that have different parking requirements such impacts are possible and therefore a mitigation measure to monitor the parking situation is recommended.

Chair Hay said that they requested at the last meeting a copy of the Western International parking study and all they received was a letter stating that W.I. disagreed with the Fehr and Peers parking analysis and compares this project to Marriott hotels in the area. Mr. Hay said that the DEIR referred that W.I. had done a study yet what was submitted was not a study, it was an observation by the applicant and the applicant is naturally biased. Mr. Hay noted that the applicant is constrained by the site and by the high water table so they can't put another level of parking in and he is not comfortable with the situation.

Commissioner Williams said that the project is bringing a lot to the community but it also has its complexities.

Sohrab Abershi of Fehr and Peers Associates said that they found that rooms in both hotels analyzed in the traffic study were fully booked.

Commissioner Chua questioned how they know the Renaissance Hotel would be okay with a one to one parking ratio when four of Milpitas hotels have a higher

ratio. Mr. Abershi said that it is important to recognize that there are differences in the hotels beside the number of rooms, such as the number of seats in the restaurant and conference room capacities.

Chair Hay stated that the February 15, 2001 memorandum from Fehr and Peers must be included in full in the EIR. Mr. Lindsay replied that they would ensure that all of the data and tables that support Fehr and Peers conclusion would be included in the EIR.

Commissioner Galang asked if employees would have assigned parking spaces. Mr. Lindsay said not to his knowledge.

David Richerson, 1920 Yosemite Drive, asked if this public hearing would be kept open until the April 25, 2001 Planning Commission Meeting. Chair Hay said that the public can make comments on the draft EIR to staff up until April 27, 2001. Mr. Richerson said that his concern is that all the documentation has not been available to the public for the 45-day review period.

Commissioner Williams said that he would have a difficult time closing the public hearing at this point because he is not clear on the parking situation.

Chair Hay explained that in terms of process the rule under CEQA is after this 45-day period, there is an open comment period and after the comment period staff puts the comments in writing and responds to those comments and then brings the EIR forward to the Planning Commission for purposes of certifying it as complete. Mr. Lindsay said that due to the nature of the Planning application for the project the decision making body would be the City Council, therefore the Planning Commission would be making a recommendation on certification to the Council and the Council would evaluate everything at its meeting. Mr. Hay said he doesn't feel anything would be gained by continuing the public hearing and went on to say that he has two documents with exactly the same cover page, one with more information than the other and he has a problem with that. Mr. Hay requested that he get a copy of the document that has all the tables and letters contained in it.

Commissioner Chua said that the main issue is parking and all of the information that they are looking for related to parking should be summarized in one document. Mr. Lindsay said that would be provided to the Commission.

Commissioner Sandhu asked if this meeting is just to collect comments. Mr. Lindsay said that this meeting is just to collect comments and at the end of May this project would come back before the Planning Commission for formal action.

Motion to close the public hearing.

M/S: Sandhu/Lalwani

AYES: 7

OLD BUSINESS

5. Presentation on Parking at the Great Mall

Assistant Planner Fujimoto presented an informational presentation on existing parking projects and conditions at the Great Mall.

Chair Hay asked if the Mall was on schedule with its date for completion of the two out parcels and the parking garage. Mr. Fujimoto said that the April 2001 completions are for the soil storage areas and everything is tied in with the completion of the parking garage and are still scheduled for completion in spring 2001.

Commissioner Williams asked how many other stalls would the other half of the parties structure provide should it be needed. Mr. Fujimoto said that this parking structure has 674 parking stalls and the other half would also have approximately 674 stalls. Mr. Williams asked about the 20th busiest hour. Mr. Fujimoto explained that the 20th busiest hour is a study that was done the weekend between Thanksgiving and Christmas to determine the 20th busiest day. Mr. Williams asked if the requirement to do an analysis takes place because of one day or several days. Mr. Fujimoto said that they would be looking at that entire period from Thanksgiving to Christmas.

Commissioner Chua asked if there is a possibility that they would lose stalls during the reconfiguration. Mr. Fujimoto agreed that losing stalls is a possibility.

Chair Hay asked if staff had any information on the line of site issues because of the foliage problem that exists at the Great Mall. Mr. Fujimoto said that staff has been in contact with the Great Mall and the Great Mall would be addressing these issues.

Commissioner Galang asked where future valet parking would be located. Mr. Fujimoto said that the location for valet parking has not yet been determined.

Commissioner Williams asked if there are conditions in place to assure that the oak trees are protected. Mr. Fujimoto said that there are conditions in place to assure the oak trees are protected.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:45 PM to the next regular meeting of April 25, 2001.

Respectfully Submitted,

STEVE BURKEY
Secretary

KAREN RAMSAY
Recording Secretary

CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

April 25, 2001

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Lalwani, Sandhu, Williams
Absent: Galang, Chua
Staff: Burkey, Heyden, Ramsay, Faubion,
Guido, Wong, McNeely, Weisgerber, Loreda,
Randisi, Wisneski

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Dave Richerson 1920 Yosemite Drive, pointed out that at the last Planning Commission meeting there were two projects regarding roof-top equipment that were not in compliance with the City's guidelines and tonight there is another project that is not in compliance with the City's guidelines. Mr. Richerson questioned why the inspectors are signing off on these projects if they are not in compliance and suggested that planning staff meet with the building inspectors in regards to this issue.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of April 11, 2001.

Motion to approve the minutes of April 11, 2001 as submitted.

M/S: Sandhu/Lalwani

AYES: 5 (Hay, Nitafan, Sandhu, Lalwani, Williams)

ABSENT: 2 (Chua, Galang)

ANNOUNCEMENTS

Senior Planner Burkey introduced new Planning Manager Tambri Heyden and welcomed her to the Planning and Neighborhood Preservation Division. Ms. Heyden said that she is very pleased to be here and that she comes from the City of Las Vegas where she held the position of Planning Manager for the last three years and prior to that she held the position of Planning and Zoning Director for the City of Boynton Beach in South Florida for four years. Chair Hay welcomed Ms. Heyden.

Mr. Burkey announced that Office Specialist and Recording Secretary Karen Ramsay has given her resignation from the City of Milpitas because she has purchased a new home and is moving to the Sacramento area. Chair Hay congratulated Ms. Ramsay on her new home and said that he has appreciated her support.

Commissioner Williams said that he was invited by the Fire Department to witness a joint drill with VTA, which was a simulation of a vehicle that made an illegal turn in front of a light rail train, noting that it was the first time that VTA has ever participated in a joint operation with a city.

Commissioner Lalwani announced that the date for the Milpitas Chamber of Commerce business seminar has been changed from May 23, 2001 to May 10, 2001.

Vice Chair Nitafan said that the lighting at the exit at 880 and Montague inadequate, making the turn-off easy to miss and asked staff to look into the issue.

Chair Hay said that as a newly invited member of the City and Transportation Subcommittee, he would like to say that one of the priority items on the agenda is the Silicon Valley Rapid Transit Corridor project which is the 21.8 mile extension of the Bart System from a future Warm Springs station in Fremont to Downtown San Jose and the Santa Clara Cal Train station. Mr. Hay said that as a result of that meeting the City would be providing to all the Planning Commissioners copies of their monthly update reports.

APPROVAL OF

Chair Hay called for approval of the agenda.

AGENDA

Mr. Burkey added to the agenda under New Business appointment of Secretary to the Planning Commission.

Motion to approve the agenda as amended.

M/S: Lalwani/Nitafan

AYES: 5 (Hay, Nitafan, Sandhu, Lalwani, Williams)

ABSENT: 2 (Chua, Galang)

CONSENT

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

CALENDAR

Chair Hay opened the public hearing on consent item nos. 1, 2 and 3.

There were no speakers.

Motion to close the public hearing.

M/S: Nitafan/Williams

AYES: 5 (Hay, Nitafan, Sandhu, Lalwani, Williams)

ABSENT: 2 (Chua, Galang)

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

- 1. USE PERMIT NO. 1571A REISSUANCE:** Request to allow a temporary office structure and a security guard RV at 91 Montague Expressway (APN 86-34-012) for an additional six months. Applicant: Mohammad Farooq Rydhan Project Planner: Jonelyn Whales. *(Approved subject to findings with 8 special conditions).*
- 2. USE PERMIT NO. 1525 TIME EXTENSION:** Request for an 18 month time extension for a Use Permit for a mosque at 90 Dempsey Road (APN 88-04-001). Applicant: Mohammad Farooq Rydhan. Project Planner: Jonelyn Whales. *(Approved).*
- 3. USE PERMIT NO. 1499:** Six-month review of noise-related issues at the preschool, at 1651 N. Milpitas Boulevard (APN 22-02-005. Applicant: Footprints Preschool. Project Planner: Jonelyn Whales. *(Determined to be in Compliance with Approved Special Condition No. 5).*

M/S: Nitafan/Sandhu

AYES: 5 (Hay, Nitafan, Sandhu, Lalwani, Williams)

ABSENT: 2 (Chua, Galang)

PUBLIC HEARINGS

4. Use Permit No. 1583 & "S" Zone Approval Amendment

Junior Planner Guido presented a request to exceed the maximum allowed Floor Area Ratio (FAR) of 40% in order to accommodate a 3,198 square-foot expansion to an existing 13,165 square-foot building at 1486 Gladding Court, and have a FAR of 42.3%.

(Exceed maximum FAR)

Chair Hay asked if the parking problems with Gladding Court still exist. Mr. Guido said that staff had not been aware that there was a parking problem at this particular lot. Mr. Burkey added that the site currently meets the City's parking requirements.

Vice Chair Nitafan asked if the applicant agrees to remove the chain link fence. Mr. Guido replied that this is one of the items that the applicant said he would like to discuss tonight.

Jatinder Mahajan, applicant, 44727 Aguila Terrace, Fremont, said that his issues are the chain link fence and landscaping and handed the Commission photographs to refer to. Mr. Mahajan said that he had four large palm trees stolen from his property and so he put up a fence for security reasons. Mr. Mahajan said his other issue is that he is required to post a bond to get money for landscaping. Mr. Hay asked if he is asking that the bond requirement be waived. Mr. Mahajan said yes.

Vice Chair Nitafan asked if the expansion of Montague Expressway is included in this plan. Mr. Guido said that the Montague expansion and landscaping that is associated with it is expected to be complete by 2002. Mr. Burkey added that the County compensates the owner for the right-of-way.

City Engineer McNeely said that they had hoped to finish the widening of Montague by this summer but were delayed due to PG&E's need to relocate power poles 2 or 3 of which they relocated in the wrong location and had to do over again.

Dave Richerson, 1920 Yosemite Drive, suggested that the second sentence in special condition no. 4, which states that "if replacement fencing is contemplated, it shall be of decorative wrought iron and shall be subject to review and approval by the Planning Division" should be added as part of special condition no. 5 to be tied in with "prior to occupancy" instead of "prior to building permit issuance".

Motion to close the public hearing.

M/S: Sandhu/Lalwani

AYES: 5 (Hay, Nitafan, Sandhu, Lalwani, Williams)

ABSENT: 2 (Chua, Galang)

Chair Hay asked what landscaping the applicant is responsible for and which landscaping the City is responsible for. Mr. Burkey said that any landscaping that the City took out from the applicant's property they are responsible to put back. Mr. Hay asked if that leaves the applicant with any responsibility. Mr. Guido noted that the applicant is required to maintain the approved landscape plan.

Commissioner Lalwani questioned why removal of fencing wasn't mentioned in the second paragraph of page 4 of the staff report if it is such an important issue. Mr. Guido said that section pertains to the use permit part of the application.

Vice Chair Nitafan asked if the widening of Montague and the landscaping issues pose any kind of legal problems. City Attorney Faubion said that there is a process for widening, and if property is taken, there is a process to determine what property is to be taken and compensation is provided for the loss of the property.

Chair Hay said that he feels it is appropriate to require a bond, however, in item no. 4, the applicant has agreed to the condition and it is a timing issue and suggested that they provide wording that addresses both the applicant's concern as well as staff's concern. Mr. Hay said that he is comfortable with extending the time for the applicant. Mr. Burkey said that the applicant would like the opportunity to have some landscaping mature and they could work out a certain timeframe for the extension of that and could be handled at the Subcommittee level. Mr. Burkey suggested wording to amend condition no. 4 to meet the Commission's concerns.

Motion to approve use permit 1583 subject to findings with 15 special conditions with the amendment of condition no. 4 to state that the chain link fencing on the north border shall be removed within 12 months of the landscape installation on Montague. If replacement fencing is contemplated, it shall be of decorative wrought iron, the material shall be reviewed by the Subcommittee. Anytime extension is requested it shall be review by the Subcommittee. If the applicant wishes to erect replacement fencing that is of a type other than wrought iron, the material shall be reviewed and approved by the Subcommittee

M/S: Nitafan/Lalwani

AYES: 5 (Hay, Nitafan, Sandhu, Lalwani, Williams)

ABSENT: 2 (Chua, Galang)

Chair Hay called a 10 minutes recess at 8:15 PM

Recess

New Business

**5. 2001-2002
Capital
Improvement
Plan
*Community
Improvements***

Utility Engineer Wong presented a review of the proposed 2001-2002 Capital Improvement Plan for conformance with the City's General Plan.

Commissioner Williams asked for clarification on funding for the GIS and commented that there seems to be no progress. City Engineer McNeely noted that the orthographic photos that are displayed around City Hall are a product of that system and the Mr. Sid Program, which is aerial photography, is available.

Information Systems Director Marion said that they are scheduled to complete the City base map next month and they are trying to get down to a parcel level map that will have all the attributes and information on the individual parcels. Mr. Marion added that the maps related to Midtown, and the street signal battery backup systems are all created off the GIS information and are also receiving information from PG&E in a GIS format and are also using GIS for their central store of address information. Mr. Williams asked Mr. Marion when he thought GIS would be operational. Mr. Marion said that they could come back to the Planning Commission after the base map is completed and present the various layers of GIS and added that GIS would primarily be used internally but they want to put some items out on the internet for the public to look at. Chair Hay asked Mr. Marion to coordinate that presentation with Planning Manager Heyden.

Mr. Williams asked Mr. Marion to comment on "Customer Information" under Community Improvements on page 21 of the CIP. Mr. Marion said that this project was created to track inquiries and to provide the public with information on various City services. Mr. Williams asked where the City's web-site activity is budgeted. Mr. Marion said that the operation of the web-site is within the IS budget but there are other projects that have web components and the funding is within separate projects. Mr. Williams said that it is essential that the current milestones for getting emergency information on the web for the public be on target should a disaster occur. Fire Chief Weisgerber said that the project received its design phase completion during this fiscal year and is in the final stages.

Vice Chair Nitafan asked why it would be eight years before there would be any activity on the Cultural Arts Center Design. Mr. McNeely said that they didn't have the appropriate staff there to answer that question and they would get back to the Commission with that answer.

Commissioner Lalwani suggested that the CIP should have a summary list to show the projects that have already been funded and their work is still in progress and another category of the projects that have already been funded where there is no work in progress.

Commissioner Sandhu asked for clarification on project no. 31, the refurbished city garage floor. Mr. Wong explained that that is the facility where the City vehicles are maintained and serviced and this is a project to recondition the floor. Mr. Sandhu asked for clarification on City gateway identification signs and City gateway improvements on Tasman Drive. Mr. Wong explained that these projects were previously identified separately, but for efficiency of cost and consistency they are now listed in this CIP together. Mr. Sandhu asked what work is scheduled for the Library. Mr. Wong said that he doesn't know the details on the recommendations for the Library at this point.

Chair Hay said as he understands it Appendix E is active projects that are going to be closed as of June 30, 2001 and at the bottom it says that bolded projects are closed prior to year end and asked if they mean the same thing. Mr. Wong said that the intent of that note was to identify projects that have been closed in advance or prior to June 30, 2001. Mr. Hay pointed out that Future Projects are listed under Appendix E and asked if that was accurate since Appendix E list projects that would be closed as of June 30, 2001. Mr. Wong said he believed that was an error and should be listed under Appendix D.

Streets

Commissioner Williams referred to the traffic signal at Barber Lane and Bellew Drive, on page 78 of the CIP, stating that he has observed congestion at lunch hour and is curious what the benefit of the traffic signal is in conjunction with McCarthy Boulevard and asked if the signal that is being proposed coordinated with McCarthy. Mr. Wong said that yes the lights would be linked and coordinated. Mr. Williams asked if these signals would be tied into the City's fiber video. Mr. Wong said that they have a system control linkage that goes to a centralized location to provide feedback of the light activities and control information. Mr. Williams asked for clarification on the utilities undergrounding and noted that there is a small patch of utilities sitting above ground and asked if it would be part of the funding to include that area. Mr. McNeely said that the money that is budgeted for utility undergrounding is for staff coordination for PG&E to do the undergrounding and they put it on hold at this time.

Commissioner Sandhu said that last year he suggested that lighting be added on Conway and Dixon Roads and asked if any action has been taken on that. Mr. McNeely said that they are working on a Citywide study on those types of issues and they found the funding this year for that.

Commissioner Williams asked how the City prioritized street improvements. Mr. McNeely said that there is an MTC program for evaluating street deficiencies that many communities use as a standard and then there is the recommendation that staff makes through field reviews.

Chair Hay referred to Appendix D, page 247, "Potential Future Projects" "Miscellaneous and Newly Submitted" project 23, Calaveras Overpass Widening with a cost estimate of 12 million dollars and indicates Cal Trans jurisdiction and item no. 36, Urban Interchange at Great Mall Parkway at Montague 30 million dollars to be included with BART and asked when these two were added. Mr. McNeely said that they have been in there for several years and Calaveras shouldn't be in there any longer, however, Great Mall and Montague are to be included with BART in the current plan. Mr. Hay asked Mr. McNeely to expand on Urban Interchange/Great separation and what does that mean at that location. Mr. McNeely said that it would mean that Great Mall Parkway would go over Montague. Mr. Hay referred to the Calaveras overpass widening and said that he understands that Council has made it a priority to promote the 680/880 connector and there has been discussion about the Calaveras widening possibly causing it some delay or canceling the project and noted that it was an issue when discussed during the election and after the election was over the Mayor made a statement in his address to the public that one of his priorities was the Calaveras overpass widening. Mr. Hay said that it is one of his personal priorities to see the widening done and therefore he respectfully disagrees with staff's position that this should not be in the CIP because they need widen that overpass.

Water

Chair Hay asked Mr. Wong what the benefit of the Financial Utility Rate Master Plan is. Mr. Wong replied that they have information from the water supply wholesalers and also from the water pollution control plan that there is a lot of future Capital Improvement Programs that are being budgeted, for example the SF Hetch Hetchy system has budgeted upwards from 2 billion dollars over the next ten years for improvements that may affect cities like Milpitas, and could result in rates increasing twofold for our water supply and retail prices. Mr. Wong said that what they would like to do in the evaluation is look for the cost for the utility services and at the revenue sources that might be available to fund these programs that will be billed to the City of Milpitas and come up with a plan that they can look to in advance.

Chair Hay commented that the budget for the Financial Utility Rate Master Plan is \$120,000.00 and asked specifically where that money would be going and if they would be hiring a consultant. Mr. Wong said that they would hire a financial consultant who would be able to pull together the different financial instruments that may be available for funding programs.

Storm Drains

Vice Chair Nitafan referred to the Main Street pump station improvements and asked if that project has already been completed or if it is ongoing. Mr. Wong said that this is a major upgrade to the main sewage substation and the improvements have been completed and they are preparing to close out the project. Mr. Nitafan referred to page 112, the Main Sewer Pump Station Site Improvement and asked what type of improvements are being contemplated in 2001, 2002, 2003 and 2004. Mr. Wong reported that the first part involves process improvements which includes the pump station implementation, emergency power and noted that this project primarily consists of improvements to the site and after the implementation of buildings and structures there has to be proper drainage for the system. Mr. Nitafan suggested that they upgrade this in 2001 - 2002 instead of waiting to 2003 - 2004. Mr. McNeely said that the critical work has already been done on this and the flooding that occurred was due to the overtopping of Coyote Creek which is being corrected by the Santa Clara Valley Water District adding that it is not critical at this time. Mr. Nitafan asked if there is a current project to clean up the various creeks. Mr. McNeely said that the Santa Clara Valley Water District is responsible for that cleanup. Mr. Nitafan congratulated Mr. McNeely and his staff for the good work that they have done to improve the flooding issues for the City.

Parks

Chair Hay referred to page 175, the Dog Park project that was approved last year for the current year, 2000-2001, and asked if they are approved to move forward on this project. Mr. Wong said the City Council has indicated interest in moving forward with this project and staff has been discussing what the cost of the project might be depending upon the amenities. Mr. Hay said he noticed that they have \$30,000 set-aside for improvements and asked if the cost might go beyond that. Mr. Wong said that the actual cost would result from the negotiations and the scope determination. Mr. Hay asked if, as noted in the CIP, there is \$35,000 for the Park Fund, \$5,000 for Administration and \$30,000 for Improvements and asked if that is quoted properly. Maintenance Supervisor Wisneski said that they have made a proposal to the County for the development of the park and the site location and this is a place holder for the development of the park and these costs should cover what was proposed. He also noted that the County has not responded at this time.

Summary of 2001 - 2002 Distribution

Commissioner Williams referred to page 131 under "Active Projects" and stated that when going through the Y2K situation, one of the many studies that was identified was to make sure that any future problems would be identified and rectified and asked the status of this budget item. Mr. Marion reported that with regards to Y2K, all those efforts that need to be accomplished prior to the century rollover were completed and they had no serious impacts and noted that they are finishing up some clean-up operations, which would be completed by the end of the fiscal year. Mr. Williams asked if this project is now closed. Mr. Marion explained that it was held open during the current year in order to accomplish some things past January 1, 2001.

Motion to find the CIP in conformance with the City's General Plan.

M/S: Nitafan/Lalwani

AYES: 5 (Hay, Nitafan, Sandhu, Lalwani, Williams)

ABSENT: 2 (Chua, Galang)

Motion to make recommendation for improving the CIP to include the upgrade of the Cultural Art Center Design in 5 years and follow up on the feasibility study.

M/S: Nitaфан/Lalwani

AYES: 5 (Hay, Nitaфан, Sandhu, Lalwani, Williams)

ABSENT: 2 (Chua, Galang)

Commissioner Williams asked if the discussion tonight would be put into a Summary for the Commission. Mr. Burkey replied that the minutes of the meeting would reflect the concerns and issues discussed tonight.

6. Appointment of Planning Commission Secretary

Motion to appoint Planning Manager, Tambri Heyden to Planning Commission Secretary.

M/S: Lalwani/Sandhu

AYES: 5 (Hay, Nitaфан, Sandhu, Lalwani, Williams)

ABSENT: 2 (Chua, Galang)

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:30 PM to the next regular meeting of May 9, 2001.

Respectfully Submitted,

TAMBRI HEYDEN
Secretary

KAREN RAMSAY
Recording Secretary

CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

May 9, 2001

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Lalwani, Galang, Sandhu,
Williams
Absent: Chua
Staff: Heyden, Burkey, Ramsay, Fujimoto,
Faubion

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of April 25, 2001.

Motion to approve the minutes of April 25, 2001 as submitted.

M/S: Sandhu/Lalwani

AYES: 5 (Hay, Nitafan, Lalwani, Williams, Sandhu)

ABSTAIN: 1 (Galang)

ABSENT: 1 (Chua)

ANNOUNCEMENTS

Planning Manager Heyden brought to the Planning Commission's attention a memorandum from Principal Transportation Planner Oliva, summarizing the current selection process for transportation consultants and noted that this was prepared at the request of the Planning Commission and it could be agendized at a future meeting if that is the desire of the Commission.

Motion to agendized the selection process for transportation consultants at a future meeting.

M/S: Williams/Nitafan

AYES: 6 (Hay, Nitafan, Galang, Lalwani, Sandhu, Williams)

ABSENT: 1 (Chua)

Chair Hay announced that the Planning Commission Recording Secretary, Karen Ramsay, has resigned her position with the City of Milpitas and is moving to the Sacramento area. Mr. Hay presented a commendation plaque to Ms. Ramsay from the Planning Commission to thank her for her support.

Recess

Chair Hay called a 15 minute recess for refreshments at 7:15 PM.

Vice Chair Nitafan announced that the Filipino-American Association of Milpitas, Inc. proudly presents the Filipino Fiesta and Commemoration of Philippine Independence scheduled for June 2, 2001 at 2:00 PM at the Milpitas Community Center.

Planning Manager Heyden announced that there would be a Special Planning Commission Meeting that will be held on May 30, 2001.

APPROVAL OF

AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Deepka/Williams

AYES: 6 (Hay, Nitafan, Galang, Lalwani, Sandhu, Williams)

ABSENT: 1 (Chua)

CONSENT

CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

There were none.

Chair Hay opened the public hearing.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

2. SITE & ARCHITECTURAL REVIEW: A request to construct a new 3,737 square foot custom home on a vacant lot, within Planned Unit Development No. 18, at 504 Hamilton Avenue (APN 28-14-001). Applicant: Glush Dada. Project Planner: Jonelyn Whales **(Open the public hearing and continue to May 23, 2001)**

M/S: Nitafan/Sandhu

AYES: 6 (Hay, Nitafan, Galang, Lalwani, Sandhu, Williams)

ABSENT: 1 (Chua)

PUBLIC HEARINGS

1. Approval for "S" Zone Application, Use Permit No. 1574 and EIA No. 757

(expansion)

Assistant Planner Fujimoto presented a request to allow a 17,146 square foot, two building temple expansion at 50 South Main Street. Mr. Fujimoto suggested that finding no. 9 in the staff report which states "As conditioned, the proposed restaurant use will not be detrimental or injurious to the public health, safety, and general welfare to adjacent future tenants or the surrounding community" be deleted from staff's recommendation. It was so ordered that finding no. 9 would be deleted from staff's recommendation.

Commissioner Williams asked if staff has looked at the possibility of making that a temporary Parking zone. Mr. Fujimoto said that there are 4 parking stalls that are striped green for temporary parking at the curb so members would not take up all the parking for Mr. P's.

Commissioner Sandhu asked if the applicant has identified a place for off-site parking. Mr. Fujimoto said that the applicant has been working with staff to identify places that they could possibly have a shared parking arrangement.

Commissioner Lalwani asked if they have permission to use the preschool parking lot. Mr. Fujimoto said that they would not be using the preschool parking lot.

Mr. Galang asked how they are handling the safety of the children crossing the street during construction. The neighbors are notified of the construction and they will be taking precautions for the safety of the children.

Dennis Jang, Applicant, 2260 Sunny Drive, Hillsborough, said that there is an 18 month construction period and they plan to scale back their operations to 40 persons maximum and have received a signed agreement from the VTA granting them the permission for 25 parking spaces during construction which is anticipated to start in 2002. Commissioner Lalwani asked what the origin of the Temple is. Mr. Jang explained that Buddhists have four types of origins. Ms. Lalwani asked how many people would be attending. Mr. Jang said on Sunday there is from 90 to 120 persons and after expansion about 300 maximum. Vice Chair Nitafan asked if they would be renovating the existing building first. Mr. Jang said that there is no detailed planned at this time. The detailed design would be done after the use permit is granted.

Steve Yang, Architect stated that they are just asking to have their use permit granted and he would answer any questions.

Commission Lalwani asked if the picture outside the temple would be part of the architecture. Mr. Yang said that the picture symbolizes the Buddhist spirit and would be part of the architecture.

Commissioner Williams asked if there would be planters for flowers. Mr. Fujimoto said that one of the conditions of approval is that they modify the front entrance into the front plaza off of Main Street.

Commissioner Nitafan asked the height of the fence. Mr. Yang said the fence between properties is about 6-feet high. Mr. Nitafan said that there is no landscaping plan in the report for the area between the fence and noted that a condition should be added to address that. Mr. Fujimoto said that staff is recommending that the applicant resubmit the landscaping plan. Chair Hay so ordered that the special condition no. 6F be added to state that landscaping would be added to the east side of the property.

Commissioner Nitafan said that there are a couple of existing trees in the area and said he doesn't want to see them destroyed. Mr. Fujimoto said that if there are any trees of significance they would need to go through the Milpitas Parks and Facilities department to get a tree permit to assure any trees on site would not be removed.

Motion to close the public hearing.

M/S: Nitafan/Sandhu

AYES: 6

ABSENT: 1 (Chua)

Planning Manager Heyden noted that finding no. 9 should remain as one of the findings in order to grant approval, but should be amended to delete the word "restaurant".

Motion to approve "S" Zone Application, Use Permit No. 1574 and EIA No. 757 with the amendment of finding no. 9 to delete the word "restaurant" and the addition of landscaping to the east location of the site and to amend condition no. 6 to include that the landscaping plan would come before the Planning Commission Subcommittee for approval.

M/S: Nitafan/Sandhu

AYES: 6

ABSENT: 1 (Chua)

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:25 PM to the next regular meeting of May 23, 2001.

Respectfully Submitted,

TAMBRI
HEYDEN
Secretary

KAREN
RAMSAY
Recording
Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

May 23, 2001

**PLEDGE OF
ALLEGIANCE**

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Hay, Nitafan, Chua, Galang, Lalwani, Sandhu,
Williams
Absent: None
Staff: Anaya, Burkey, Faubion, Fujimoto, Guido,
Heyden, Judd, Lindeman, Lindsay

**III.
PUBLIC FORUM**

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers.

IV. APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of May 9, 2001.

Motion to approve the minutes of May 9, 2001, as submitted.

M/S: Nitafan/Lalwani

AYES: 6

ABSTAIN: 1 (Chua)

ABSENT: None

V. ANNOUNCEMENTS

Planning Manager Heyden announced cancellation of the Special Planning Commission Meeting scheduled for May 30, 2001 at 7:00 p.m. for review of the Renaissance Hotel project. The item has been rescheduled as a Public Hearing to the Commission's regularly scheduled meeting on June 13, 2001.

Ms. Heyden announced that staff is developing a special Planning Commissioner's Workshop this summer. She requested that Commissioners call her next week to identify specific dates in July and August they will not be available, and indicate preferred days of the week, including Saturday. A date will be chosen based on the majority that can attend.

Chair Hay encouraged everyone to notify City Code Enforcement staff when they see illegal, "A frame" advertisements on Milpitas sidewalks. Currently, two Crescent Square tenants, UNICEF and Liberty Plaza are in violation.

**VI.
APPROVAL OF
AGENDA**

Chair Hay called for approval of the agenda.

Chair Hay added item No. 10 under New Business, Discussion of and Possible Appointment of Bylaws Subcommittee.

Vice Chair Nitafan suggested item No. 10 be placed before item No. 9 since it is likely that three Commissioners will abstain from discussion on item No.9, due to a conflict of interest.

Motion to approve the agenda as amended.

M/S: Lalwani/Chua

AYES: 7

**VI.
CONSENT
CALENDAR**

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Motion to approve the consent calendar as amended with staff recommendation and special conditions as follows:

***1. Use Permit No. 1586:** Noted receipt and file, withdrawn request to allow a 2,640 sq. ft. restaurant at 231 West Calaveras Boulevard (APN: 22-25-041). Applicant: Sung Ho Yoon. Project Planner: Troy Fujimoto.

***6. Use Permit No. 1560:** Noted receipt and file the six-month review of noise impacts associated with "Blockbuster Video" at 495 Jacklin Road (APN 26-28-27). Applicant: Larry De Spain, Blockbuster Video. Project Planner: Annelise Judd.

***8. "S" Zone Approval Amendments:** Noted receipt and file, withdrawn request to approve tree removal permits for site improvements and landscaping modifications at Able Plaza, 52-118 South Abel Street (APN 28-14-001). Project Planner: Jonelyn Whales.

M/S: Lalwani/Chua

PUBLIC HEARINGS

Chair Hay opened the public hearing on consent item no. 3.

*** 3. Use Permit No. 1592**

*Freestanding sign over
6 ft. in height for "Big
Bear Networks"*

Motion to close the public hearing and approve subject to the Findings and Special Conditions as listed in the staff report.

M/S: Sandhu/Chua

David Richerson, 1920 Yosemite Drive, complimented the applicant on his photo simulation of the sign at the location. He would like to see photo simulations become an adopted standard in future planning for items involving public right-of-way or line of sight visibility such as signs along roadways.

AYES: 7

2. Use Permit No. 1591

*Two freestanding signs
over 6 ft. in height
for "Minnis" office bldg.*

Chair Hay opened the public hearing and invited comments.

Assistant Planner Judd presented a request for two freestanding signs over six feet in height for "Minnis" office building at 1313 North Milpitas Boulevard.

Ms. Judd said both signs conform to the Milpitas Sign Ordinance. However, staff believes the main building identification sign at 11 ft. 1 ½ inches high and 13 ft. wide would present a massive appearance, out of scale with its surroundings. Additionally, the sign does not address the General Plan goal to create a more walkable and pedestrian friendly environment. Staff noted that there are no existing

signs of that size along that N. Milptas Boulevard corridor.

Staff recommended approval of the use permit with the stipulation that the main identification sign be reduced in size to 6.5 ft. tall and 10ft. wide, (overall height of 9.5 feet including the 3-foot berm), and that the approval be based on the findings in the staff report and the four special conditions listed in the staff report.

In response to questions from Commissioner Chua, Ms. Judd said the applicant wishes to pursue the sign as proposed as they believe it is in scale with the building, although the wedge-shaped monument sign at Crescent Square is 7 ft. tall by 7 ft. wide and the monument sign for the City Police Building is about 3 feet tall.

Vice Chair Nitafan pointed out that the McDonald/Chevron sign on Great Mall Parkway is 14 ft. high, obstructed at the base by a hedge. In comparison, the proposed sign is not obstructed at the base by a hedge but it is 3 ft. less in height than the McDonald/Chevron sign.

Dan Youngs, Applicant, 839 Inverness Drive, stated the request for the main building identification sign will include only three major tenants' names. They have decided that all-building tenants will not be allowed to place their own signs. He said that, technically, more than 1,500-sq. ft. of signage could be allowed for this building, however, he is asking for only 167 square ft. The sign cost is over \$30,000 and was designed to be aesthetically pleasing to the building and surroundings. Over \$100,000 is being spent on the landscaping for the same reason. He requested approval of the sign as presented and noted it conforms with the sign ordinance.

Chair Hay invited the public to address the item.

Dave Richerson, 1920 Yosemite Drive, commented that the sign and building design is excellent. His concern is with the line of site as the sign is very large and the building is on a prominent, busy corner.

Responding to Mr. Richerson's concerns and suggestion that a line of site study be done, the Applicant confirmed that a line of site study was completed, reviewed by Planning and it was determined there is no line of site interference.

Motion to close the public hearing.

M/S: Nita fan/Chua

AYES: 7

In response to Commissioner Chua's question regarding staff's finding No. 2, c), Ms. Judd stated that the City's Traffic Engineer applies a formula for site-distance analysis. The proposed sign is setback about 15-20 feet behind the sidewalk and has been cleared by the Traffic Engineer for site-distance concerns.

Staff's main objection is that the sign is too large both in height and length and in comparison to other existing signs along N. Milpitas Boulevard, and is more massive in appearance than any other sign.

Ms. Judd added that the N. Milpitas Boulevard roadway is not as large as Great Mall Parkway, which has a much wider right-of-way and the McDonald/Chevron sign was allowed. The scale of the sign needs to be commensurate or appropriate with the scale of the public right-of-way; that sign then becomes part of the public domain.

Continuing her response to Commissioner Chua, Ms. Judd stated that the sign ordinance allows very tall signs for this site based on the site's public street frontage. Specifically, the Applicant would be allowed 3 freestanding signs, 2 could be

up to 25 ft. tall and the other up to 24 ½ ft. tall with approval of the Planning Commission under the Use Permit Process. Commissioner Chua said she would rather see the Applicant's proposed sign rather than one 25 ft.in height.

Comissioner Lalwani commented that because the Applicant has chosen a smaller sign, rather than the three taller signs, some leeway should be allowed.

Sr. Planner Burkey pointed out that there is nothing to prevent this owner or future building owners from asking the Commission for more signs. The maximum set by the sign ordinance is not always the appropriate amount. The scale of the building, scale of other surroundings, sign environment, scale of the street, etc., must also be taken into consideration for staff recommendation for approval or denial.

Commissioner Sandhu supported staff's recommendations.

Vice Chair Nitafan said that by his own calculations, the proposed sign would not be an obstruction and supported the Applicant's request.

Motion to approve the Applicant's Use Permit with the deletion of Special Condition No. 2 requiring a revised sign design to a smaller size.

M/S: Nitafan/Chua

AYEs: 6NOEs: 1 (Sandhu)

Chair Hay welcomed several local High School students to the civic process.

**4.Zoning
Ordinance
Amendment**

*Front yard
pavingRestriction
within R-1Single-
Family
ResidentialDistrict*

Assistant Planner Judd presented the proposed text amendment as outlined in the staff report. Staff recommended approval to the Council of the proposed text amendment.

Responding to Commissioner Chua, Ms. Judd stated that this amendment would clearly allow no more than 50% paving of the width of the required front yard, or the width of the garage (if that is wider), with the exception for walkways, i.e., from the sidewalk to the front door. Aerial photos would be used to determine if concrete paving existed prior to adoption of the original ordinance; such paving is considered legal, non-conforming and removal is not required.

Ms. Judd confirmed for Commissioner Nitifan that a porch could be paved as long as it is behind or outside the 20 ft., front yard setback line. For a typical R1-6 lot, a patio covering could not be constructed within the front 20 ft. of the lot.

Chair Hay opened the public hearing.

There were no speakers.

Motion to close the public hearing.

M/S: Nitafan/Williams

AYES: 7

Commissioner Nitafan stated his concern that requiring patios to be included in calculations may encroach on the rights of property owners.

Ms. Judd clarified for Chair Hay that the proposed amendment includes patios in the 50% calculation for coverage allowance when that patio is located within the required front yard. The enforcement issue is that when no physical definition or patio barriers exist to separate the paved area from the rest of the driveway, there is nothing to prevent cars from pulling over onto the so-called patio area. It is a loophole some residents have used to their advantage and the City has to accept their explanation, although neighbors continue complaining about the on-going parking on some paved front yards.

Senior Planner Burkey stated that the property owner could choose to go through the "Exception" process and present their justification for a paved patio to the Planning Commission. They could provide maps, exhibits, and information to show that the paved over area is used as a patio and that it adds to the neighborhood beautification. The Planning Commission would make the final determination.

Per Chair Hay's request, Sr. Preservation Specialist Anaya detailed the status of the current 16 complaints, the enforcement process and difficulties staff encounters. She recalled the Neighborhood Beautification Ordinance (NBO) was brought to City Council, through residents' desire to see more green in Milpitas. The paving of front yards takes away from the spirit of the NBO. Ms. Anaya stated that when the NBO was approved, a public outreach brochure was developed, including paving restrictions. The brochure was mailed to all Milpitas residents.

Ms. Anaya confirmed that if the need for abatement is determined and is completed by the City, a lien could be placed on the property for any fees not recovered from the property owner. CDBG money is not available for mitigation or abatement. Unresolved cases are referred to the City Attorney.

City Attorney Faubion clarified that possible penalties for violation

include a \$500 fine, possible imprisonment or the City Attorney could sue for public nuisance. No citations have been issued in any of these cases.

Commissioner Chua questioned if this Commission is reacting to the 16 code enforcement complaints by making this amendment. She believes there should be a continuous public outreach program effort for the original zoning ordinance, since it is still fairly new. She stated she is not in favor of approval of the amendment.

Commissioner Lalwani said she felt that either way, the issue is self-defeating. Responding to her question, Ms. Anaya reported that staff is tracking the time spent on these code enforcement issues. Chair Hay concurred with the importance of record keeping for future use.

Commissioner Sandhu said he is concerned that by placing more restrictions on residents, in response to the 16 complaints, that the Commission may be creating more problems. He believes not enough has been done to enforce the original ordinance and that more time should be given to residents to beautify their property.

Chair Hay stated that a tremendous amount of time was spent working on the 5 year process to adopt the NBO, including multiple public hearings and an extensive outreach program. He believes the policy established is a reflection of what the Council and this community wants. They do not want blight such as automobiles on front lawns. He said this was made very clear during the NBO public hearing process what direction the City has taken and the reasons for it. He said he believes that resolution of this issue is headed in the right direction and clarification will be to the benefit of all parties involved. He said he is in support of staff's recommendation.

Vice Chair Nitafan said he believes that, over time, the original ordinance will work, but it is new and is not being enforced. He believes the proposed amendment is more restrictive and said he supports continuance of the original ordinance to allow homeowners to be responsible citizens of the City of Milpitas.

Motion to recommend denial to City Council of this proposed

amendment.

M/S: Sandhu/Nitafan

AYES: 5 (Nitafan, Chua, Galang, Sandhu, Lalwani)

NOES: 2 (Hay, Williams)

RECESS

Chair Hay called a 15 minute recess at 8:35 p.m.

5.
Use Permit No. 1594
and "S" Zone
Amendment
Yosemite Business
Park Applicant:
Realm Communications

Jr. Planner Guido presented a proposal for a 10,000 sq. ft. second floor addition to a 23,1685 sq. ft. building and a use permit to exceed the allowable 40% FAR with an increase to 55.5%, and a parking requirement reduction from 112 to 79 spaces. The staff report specifically indicates how the applicant has agreed to meet the necessary requirements. Currently the building and lot meet the FAR and parking space requirements for the "M2-S" heavy industrial district for research and development uses.

Staff recommended approval of the proposal based on findings and subject to special conditions with a minor wording change to special condition #8. The word "employment" is to be replaced with the word "employees".

Responding to Commissioner Williams, Mr. Guido stated that

4 ADA parking spaces would be provided.

John Russell, Applicant, 7019 Apple Grove Ct., stated his company is a fiber-optic business. The growth over the next few years to approximately 74 employees will not be located at the Milpitas site but located offshore for the assembly and manufacturing portion of the business. If the number of employees increases to the maximum number of available parking spaces, the company would begin offset work shifts.

Currently 67% of the 45 employees drive their own vehicles and the others use mass transit or car pool. Approximately 10% of parking will be set aside for visitors. Clients make up the majority of visitors utilizing parking for only the 15 minutes or so needed to pick up product or for the delivery service to drop off items.

Management staff will be assigned to monitor the number of parking spaces vs. demand. Additionally, annual employee reports will be provided to the City as one of the proposal conditions for monitoring parking spaces.

To address Commissioner Williams' concern about employee parking, the Applicant agreed to add "for employees" at the end of the first sentence of condition no. 6 at the bottom of Page 5. The sentence would now read: " . . .and that the number of employee vehicles on-site during any given eight-hour shift shall not exceed owner's available on-site parking "for employees".

Commissioner Sandhu said he did not consider parking critical because a manufacturing use would not draw as many visitors as a shopping center.

Commissioner Chua thanked Mr. Russell for choosing Milpitas for their business site. She encouraged that Mr. Russell consider a Traffic Demand Management program for their employees to utilize mass transit.

In response to Commissioner Galang, Project Architect Kevin Maddas, 255 N. Market Street, San Jose, clarified the proposed windows and building color will duplicate the existing. Mr. Maddas requested that Special Condition No. 3 on Page 5 be amended or deleted. He suggested use of a phrase that would refer to the total use and not specific ratios of proportions of office area and manufacturing and warehousing area. He said that if a tenant modification becomes necessary in the future, he would like to be able to contact Planning staff to expedite the process, rather than going through a 3-month long process.

Referring to special Condition No. 5 on Page 5, the identification of on-site parking, Mr. Maddas requested to have only handicapped and visitor parking be identified on parking spaces; with the remainder considered as general parking.

Dave Richerson, 1920 Yosemite Drive, commented that he is satisfied with the special conditions and the level of detail they cover. He stated Condition No. 5 means the Applicant must reference, by name, each individual Realm employee, it would make it difficult for shift changes and poses a security problem for employees. He believes the parking spaces should be marked only with a reference to Realm Communications, or the tenant occupying Building D in the future.

Motion to close the public hearing.

M/S: Williams/Chua

AYES: 7

In response to Commissioner Chua, Mr. Guido and Ms. Heyden stated that by listing Condition No. 3, staff added a safeguard to monitor any potential exceeding of the parking. The additional safeguard is to record the title so the use permit runs with the land. Special Condition No. 8 allows staff to evaluate the annual report and if necessary, can bring the

parking issue back to the Planning Commission if the employee numbers exceed their parking. Additionally, this condition would prevent a future owner from changing the setup to a non-manufacturing use to more offices, which could increase the parking demand.

Commissioner Chua indicated her concern that this may be micro-managing the use of the company and that is not what is intended.

Attorney Faubion confirmed Chair's belief that when an applicant asks for exceptions, in this case for a reduction in parking, the Commission has the authority to impose conditions to provide justification for approving such requests as this one.

Chair Hay felt that Condition No. 3 can be eliminated because Condition No. 6 details the agreement and monitoring program. Commissioners Chua, Lalwani and Ms. Heyden agreed. Chair Hay congratulated Mr. Guido on his creativity. Ms. Heyden said that the yearly monitoring, on the anniversary of the occupancy, could be done in the same way as the current 6-month reviews that are brought to the Commission.

In response to Commissioner Chua, Mr. Guido and Attorney Faubion suggested revision of Condition no. 5 to read: "Prior to occupancy, the applicant shall mark all on-site parking spaces with the company name."

Commissioner Chua stated she would like to see, before occupancy, a TDM program from Realm Communications and suggested it be listed as separate, Condition No. 11.

Motion to approve Use Permit 1594 and S Zone Amendment with the deletion of Condition No.3 and the correction of Condition No. 5.M/S: Lalwani/Sandhu

Chair Hay clarified the intent of the motion is to approve Use

Permit 1594 with a FAR of 55.5% and parking requirement reduction to 79 spaces based on the findings and subject to the conditions listed below.

Conditions No. 3 shall be deleted. Condition No. 5 shall be rewritten to read: "Prior to occupancy, the applicant shall mark all on-site parking spaces with the company name."

Condition No. 8 shall be changed to include number of employees.

Condition No. 11 shall be included to read: "Before occupancy, the applicant will work with staff to come up with a TDM program."

IX.
OLD BUSINESS

None

X.
NEW BUSINESS

7.
City Traffic
Consultant Selection
Process

Principal Transportation Planner Joe Oliva reported that his memo dated May 9, 2001 to the Commission, included in the packets, was written per the Commission's request that staff explain the consultant selection process and provide alternatives. Staff recommended status quo for the consultant selection process.

Chair Hay stated that this request arose due to the frustrations with traffic and parking issues in the City. The question came up with regard to what extent is there any bias on the part of an independent traffic study consultant, or on the part of staff. Chair stated the Commission is looking for the most objective result. The Committee and the City Council can then determine what is best.

Practice has been that the City requires the applicant to hire the traffic consultant from an approved list that City staff provides. City Staff then reviews the report submitted by the consultant. Mr. Oliva's recommendation is that the current practice continues.

Chair pointed out that the City Council agreed that when the Transportation Subcommittee was originally set up, it was structured so that the Chair of this body is included as a member of that process. Although the Commission had not always been part of that process related to public transportation in our City, Chair now attends the meetings.

Commissioner Williams stated that with compounding of conditions over the years due to the rapid growth, it doesn't help matters when reports may have had questionable results or statements whether from accuracy or the reports just were not valid. If there is a check and balance in place to ensure the best interest of all is being addressed, and not just for a select group, that is the assurance he is looking for. He commended Mr. Oliva for his professional excellence in this field and for the service he provides to the City and the community. He agreed with the status quo as recommended by staff. However, he would like a caveat that in the future

where these concerns need to be addressed, the Commission will be able to provide assistance.

Motion to approve the Status Quo. Noted receipt and file staff memo.

M/S: Williams/Sandhu

AYES: 7

10. Appointment of Bylaws Subcommittee

Chair Hay, Vice Chair Nitafan and Commissioner Chua were recused from participating in item No. 9, due to a conflict of interest. As has been consistent with past practice, the most senior Commissioner, Commissioner Williams would be next in line to Chair the meeting. Chair Hay said that because of this type of situation, there is clearly a need for official Commission operating procedures. He noted that there have been resolutions adopted by the Commission dating back to 1972.

Chair Hay, Vice Chair Nitafan, and Commissioner Williams volunteered to sit on the Ad Hoc Bylaws Subcommittee.

Motion to approve an Ad Hoc Bylaws Subcommittee to work with staff to develop bylaws for review and adoption by the Commission. The Subcommittee will meet on an irregular basis.

M/S: Nitafan/Sandhu

AYES: 7

**9.
Site &
Architectural
Review**

*504 Hamilton
Avenue (APN 28-14-
001) PUD No. 18*

Chair Hay and Commissioners Nitafan and Chua abstained from item n. 9 due to a conflict of interest.

On behalf of Project Planner Jonelyn Whales, who has accepted a permanent position with the City of Dublin, Planning Manager Tambri Heyden presented the staff report pointing out special differences of this request. She highlighted the issues that justify staff's recommendations to approve, including specific conditions of approval, and subject to modifications of the elevations and site improvements. Staff believes the recommended modifications achieve greater compatibility of scale and architectural features with surrounding properties in the neighborhood.

Staff utilized site photographs and good planning principles in comparing the homes in the area and immediate neighborhood and used the Site and Architectural Review criteria in the Zoning Code as a guide. The request complies with the Zoning Ordinance and PUD standards.

The lot has three street frontages, multiple rooflines with the highest peak being 29 ft., measured from the lowest finished grade to the highest ridgeline of the building. Architectural features not found within the area are the rear balcony, front portico, a projecting portico at the front building entrance and the wrought iron railings. The average building square footage in the neighborhood is 2,178 compared to the proposed subject residence of 3,737 square feet and the average FAR for the area is 33% compared to 46% for the subject dwelling.

Ms. Heyden pointed out the black and white photographs that show the heights of the home at different locations on the lot, 19, 20 and 29 ft. The highest ridgeline of the home is centrally located on the lot. One photo illustrates a 5-ft. difference in height and the bulk of the proposed home in relation to the adjacent home to the north. The height may adversely affect the privacy of nearby residences. Staff believes the 20-ft. rear balcony will dominate the view from

Escuela Parkway and staff recommends it be reduced by 10 ft. so it is more within the building envelope. Because rooflines in the immediate area are very simple, and because the 29ft. roofline lends to a towering appearance, staff recommends the peak of the roofline be lowered by three feet to be more in keeping with that of the adjacent home to the north.

Ms. Heyden reported that as of September 7, 2001, Federal Emergency Management Agency (FEMA) will lower the base flood elevation of this area, thus lowering the highest elevation of the house from the ground level from which it is measured. The amended wording of staff's recommended Condition No. 6, due to the new FEMA regulations, is later read into the record when the motion is made.

Responding to Commissioner Sandhu, Ms. Heyden said that based on the field investigation, all surrounding homes listed on the table in the staff report, all but one are two story. She verified that this lot is the third largest lot in the area.

Applicant, Robert Holland, 56 Heath Street, introduced his wife, Mercedes, and the Architect, Glush Dada. The Applicant addressed 4 conditions he wished to have stricken; 2 are based on wrong facts and 2 are a matter of taste.

Mr. Holland said the story poles are installed on the lot. He said the 29 ft. mark is represented in a photo provided, which shows that the difference in height between the proposed home and the house next door is only about 1 foot, not 5 feet. He believes staff's reference to the height of the house next door is incorrect. He requested the original height of 29 feet be approved because it is within the 30-ft. restriction.

He pointed out the drawing depicting the rear porch balcony is an error because the drawing does not clearly show where that porch ends. The porch stops just above the columns and has a semi-circular wrought iron fence, extending not more than a foot beyond those columns. All is within the setback of 25 ft. from the soundwall.

Additionally, beyond that soundwall, there is another 6-8 feet of sidewalk and landscaping strip so it is well over 30 feet from Escuela Parkway. The neighbors' mature trees obscure the project and additional landscaping will further obscure. The streets are curved, so one does not see this property from a long distance, one will see it only when they get closer to it.

The Applicant said the wrought iron and the portico entry are matters of personal taste. The entry extends only a few feet out from the building, matches the design of the building, is not an extremely tall front entry and it is all within the required setbacks. The Applicant said he met with the neighbors to discuss the wrought iron and they signed the petition in support of his project. He requested the Commission's approval.

Responding to Chair Williams's concern that the project elevation plan shows a 3-ft. start on the first floor, the Architect verified that the first floor level would be at the standard, 0-18" in height.

Architect Glush Dada, 6570 Northridge Drive, San Jose, stated that the design is based on French/Mediterranean and the more angular sloped roofline selected was adjusted lower for compatibility with neighboring rooflines. Staff's recommendation is 26 vs. 29 ft. Ms. Dada pointed out that when she investigated for zoning regulations and design guidelines required by the City of Milpitas, she found there are no design guidelines. Additionally, there was different direction from the Planners throughout the process. Based on her findings, she designed the project at this height and did not see that it would be a problem.

Discussion ensued regarding the submission of the two site plans in determining the Architect's intention for the roofline.

In response to Chair Williams question "would the highest

roofline would still be lower than 29 ft.?" the Architect replied "yes."

In response to Commissioner Lalwani, staff stated that Condition No. 3 is listed because staff could find no examples of wrought iron used on dwellings in this PUD or in the neighboring Beresford Park Estates. Wrought iron is also a more expensive treatment and there are other types of railing that could be used without deleting the positive appearance of a railing on the balcony. Another selection would not draw as much attention to the railing as it would blend in more than wrought iron would.

Regarding Commissioner Lalwani's question whether the rear balcony is a privacy issue, Ms. Heyden stated that after taking all views of the project into consideration, staff's professional opinion is that even if FEMA allows the elevation to be lowered, the issue is still the 29-ft. roofline. From staff's view of the rear balcony from Escuela, it appeared as if the balcony is almost like an observation tower because it is so large and extends 20 ft. from the home.

The Architect showed Commissioners, on the plans that the balcony does not extend 20 ft. out. She also stated that there is almost 40 ft. between the side properties as it goes towards the back of the property.

Commissioner Lalwani stated that if other houses are slightly lower, i.e., 28 ft, she has no problem with the 29 ft. height, and has no problem with the iron railings. However, if the balcony creates privacy issues, she would agree with staff's recommendation. In response to Commissioner Lalwani, the Architect said the total depth of the balcony is a maximum of 9 ft.

Chair Williams indicated he has no problem with the height, the composite photo helped him make his decision, and he has no problems with wrought iron because of the mixed art décor already in the community. However, the distance of the

porch is a concern to him and a concern to staff. He suggested setting a special limit not to exceed 8 ft. as a reasonable distance.

Motion to approve the site and architectural review with the amended conditions and to delete Conditions Nos 2 and 3 and revise Condition No. 5 to include the stipulation that the balcony shall not exceed 8 ft.

M/S: Sandhu/Lalwani

Because of the changes by FEMA, the revision of Condition No. 6 of the staff report is read into the record by Chair Williams:

6. FEMA allows the base flood elevation in this area to be lowered by 2.5' to 15' (effective 9/7/01), the building height approved as part of the subject request shall be measured from 15' and the applicant's building plans shall be prepared accordingly.

Additionally Chair Williams amended the motion to include that in Condition No. 4, the front portico shall be limited to 5 ft. maximum. The maker and second of the motion concurred.

AYES: 4

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:25 PM to the next regular meeting of June 13, 2001.

Respectfully Submitted,

TAMBRI HEYDEN
Secretary

VICKI LINDEMAN
Recording Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

June 13, 2001

**I. PLEDGE OF
ALLEGIANCE**

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL

Present: Hay, Nitafan, Chua, Galang, Lalwani, Sandhu
Absent: Williams
Absent: Faubion, Fujimoto, Heyden, Lindsay, Oliva, McNeely

**III. PUBLIC
FORUM**

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers.

**IV. APPROVAL OF
MINUTES**

May 23, 2001

Chair Hay called for approval of the minutes of the Planning Commission meeting of May 23, 2001.

Commissioner Lalwani noted that she did not abstain from voting on approval of Minutes of May 9; Commissioner Chua was the abstaining member.

Motion to approve the minutes of May 23, 2001, with the correction noted.

M/S: Lalwani/Nitafan

AYES: 6

ABSENT: (1) Williams

**V.
ANNOUNCEMENTS**

Planning Manager Heyden announced that Wednesday, August 29, 2001 at 6:30 p.m. is the tentative date/time selected for the special 2-hour Planning Commissioner's Workshop. She requested that Commissioners call her next week to confirm their availability. Some ideas for topics raised will have to be discussed at a later workshop. If there is interest, regular workshops can be held. An agenda will be sent out one week in advance.

Ms. Heyden recalled that conference information was distributed at the last meeting. She requested that Commissioners notify her by the end of July if they will be attending in order to meet the registration deadline and have travel and hotel arrangements made.

Commissioner Lalwani announced that the Milpitas Chamber would hold its Business Person of the Year Banquet on June 20, 2001 at the Sheraton. Commissioner Lalwani was congratulated on her re-election as President of the Chamber.

Commissioner Chua commended recording secretary, Vicki Lindeman, for an impressive job in transcribing the Minutes. Chair Hay added that recently he passed on similar comments to the Planning Director. He said he particularly liked the helpful, descriptive comments noted on the side.

VI. APPROVAL OF AGENDA Chair Hay called for approval of the agenda.

Ms. Heyden noted that Public Hearing item No. 1 **Applicant, Adrienne Rakitin**, has accepted the conditions of approval and Ms. Heyden requested the item be moved to the Consent Calendar.

Chair Hay moved item No. 1 under Public Hearings to the consent calendar.

Motion to approve the agenda as amended.

M/S: Lalwani/Sandhu

AYES: 6

ABSENT: (1) Williams

VI. CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Chair Hay opened the public hearings on consent item Nos. 1 and 3.

There were no speakers.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

*** 1. Use Permit No. 1584:** A request for the temporary use of a residential trailer at 1499 Country Club Drive (APN: 29-03-011). Applicant: Adrienne Rakitin/Dimas LLC. Project Planner: Steve Burkey (Approved subject to findings with 5 special conditions).

*** 3. Use Permit No. 1593:** A request to operate a cellular phone store at 140 North Milpitas Boulevard (APN: 28-12-019). Applicant: Shapell Industries. Project Planner: Steve Burkey (Approved subject to findings with 2 special conditions).

M/S: Sandhu/Lalwani

AYES: 4 (Hay, Lalwani, Sandhu, Galang)

NOES: 2 (Chua, Nitafan - conflict of interest due to Real Estate Profession)

ABSENT: (1) Williams

VIII. PUBLIC HEARINGS

Chair Hay moved on to public hearings.

2. Planned Unit Development No. 78, Use Permit No. 1590, Zoning Text Amendment, and EIA No. 756 - Renaissance Hotel Applications

Assistant Planner, Troy Fujimoto, presented the Renaissance Hotel application requests for a 6-story, 362 room, full service hotel with 2 restaurants, 18,000 sq. ft. of conference room space, and a health facility on 3.3 acres. The property, owned by the Milpitas Redevelopment Agency since June 2000, is located south of Tasman Drive and west of Barber Lane next to the new VTA park and ride lot. Mr. Fujimoto indicated that the applications for this project include an environmental impact report (EIR), a zoning text amendment which would add low employee density and public benefit to criteria used to grant floor area ratio increases; a planned unit development to allow flexible site design, as well as Use Permit No. 1590 to allow an FAR increase from .50 to 1.85 to allow hotel use, restaurant and bar areas, and to use a shared parking methodology. Mr. Fujimoto summarized the process that has occurred with a March 12 to April 27 public review period for the EIR, public hearings held on March 28 and April 11, 2001, and final environmental impact report (FEIR) that includes a mitigation monitoring plan, and responses to comments received on the Draft EIR and during the review period, noting that written comments on the final EIR were received from County Roads and Airports, Dave Richerson and the Hotel and Restaurant Union Local 19.

Mr. Fujimoto went into detail about the zone text amendment comparing the current wording from the zoning ordinance. It requires the applicant to demonstrate that the proposed development, 1) generates low peak hour traffic and 2) will not create a dominating visual presence versus the proposed wording that adds a low employee density and public benefit to the criteria used in determining if a FAR increase is appropriate.

Using graphics, Mr. Fujimoto then described the site layout

and building architecture pointing out the south elevation's main entrance into the hotel, some of the architectural elements -- a bronze standing seam steel metal roof, steel eyebrow awnings over the top level of the hotel, a porte cochere over the front entrance, canvas awnings to provide a more pedestrian streetscape look to the building, and the smooth and rocky masonry unit base. The east elevation view shows the loading dock and the north elevation viewed from Tasman Dr., and the south elevation of the building shows where the pool and the special events area will be located.

Mr. Fujimoto moved on to parking by noting the 362 spaces to be provided and the various uses that will generate a need for parking including the 362 hotel rooms, 18,000 sq. ft. of meeting space, 2 restaurants - one of which will be a casual restaurant with 121 seats and operating hours of approximately 6am to midnight, and the other a gourmet restaurant with approximately 48 seats with 5 p.m. to midnight hours. Mr. Fujimoto also noted the dark bar that will have approximately 61 seats and early evening to approximately midnight hours. This was followed by an explanation of two options to predicting parking demand - the zoning ordinance fixed ratio which assumes peak parking period is sustained for all uses or a shared parking methodology which recognizes some uses have different peak parking periods.

Mr. Fujimoto added that local surveys were done of two neighboring hotels in the city of Milpitas; the Sheraton and the Embassy Suites. The Sheraton has 229 rooms, 382 parking spaces, 335 restaurant and bar seats, and 6,500-sq. ft. of conference rooms.

Embassy Suites has 266 hotel rooms, 338 parking spaces, 200 restaurant and bar seats, and 4,600 sq. ft. of conference rooms, compared with the proposed Renaissance Hotel that would have 362 hotel rooms, 352 parking spaces, 230 restaurant and bar seats, and 18,000 sq. ft. of conference rooms.

Mr. Fujimoto displayed two graphs showing the peak parking period at noon, when there were 250 occupied spaces out of 382 spaces available at the Sheraton and, almost 250 parking spaces out of an available 338 spaces at the Embassy Suites. Similar peak parking demands are 1 space per guest room and he gave the Sheraton's cumulative parking rate per room of 1.1 and Embassy Suites' .90 cumulative parking rate per room as examples, concluding that the restaurant and meeting spaces peak at 12 p.m. The 362 spaces would meet the project's estimated parking demand. Because there are two different approaches to calculating parking demand, Mr. Fujimoto stated that staff recommends that a parking monitoring plan be a condition of approval. The plan requires the applicant to provide valet parking for the first 3 months, which would increase supply by approximately 40 spaces. After the first 3 months, the applicant would remove valet parking for the next 3 months. After the first 6 months, there would be an independent, third party report done of the prior 6 months that would be funded by the applicant and reviewed by the Planning Commission for further evaluation.

Regarding traffic, Mr. Fujimoto stated that significant impact that can be mitigated is the I-880 S/B ramp at Tasman Dr. This can be mitigated to a fair share contribution for widening the S/B ramp off of I-880. Unavoidable significant traffic impacts include the intersection of Tasman and Alder Dr. The mitigation monitoring plan would have transit incentive programs as partial mitigation for this impact. The S/B segment of McCarthy Blvd. between Bellew and Tasman would be another unavoidable significant traffic impact, and lastly, the segment of Tasman Dr. between McCarthy Blvd. and I-880.

Regarding noise, Mr. Fujimoto explained that the City's conditionally acceptable exterior noise level standard for hotel uses is 70 dBA CNEL, which is basically a 24-hour reading of noise level. The predicted noise levels around the project range from 68 to 76 dBA CNEL. This is an unavoidable significant impact and partial mitigation includes a soundwall along Tasman and water features to mask the noise.

The last project issue Mr. Fujimoto discussed was noise. He indicated that the original building style changed to better integrate with adjacent business parks and present a modern up-to-date appearance. Mr. Fujimoto added that staff is requesting further embellishments to improve the style, including reduction of the large areas of blank exterior finish, more visual interest to the south elevation, and reduced visibility of the privacy screens on the 2nd floor patios.

Mr. Fujimoto concluded staff's presentation with a recommendation to recommend that the City Council certify the EIR, including the statement of overriding consideration and the mitigation monitoring program; adopt Ordinance No. 38.757, the FAR Zoning Text Amendment; approve PUD No. 78; and approve Use Permit No. 1690 subject to the findings and special conditions contained in the staff report.

Mr. Fujimoto then introduced the Applicant, **Michael Mahoney**, as well as his architect, **Milton Anderson**, and the environmental consultant, Phyllis Potter of EDAW.

Chair Hay commented that he asked that staff and the applicant do a complete presentation before the Planning Commission moves into the public hearing and considers the different recommendations one at a time starting with the EIR certification.

Chair Hay invited the applicant to address the Commission.

Michael Mahoney, 12850 Sterling Dr., Suite 1450, Dallas, TX 75330, stated he worked very closely with staff on this project and was available to answer questions.

Chair Hay reminded the audience that all of these applications before the Planning Commission will also be before the City Council at its meeting of Tuesday, June 19, 2001 at 7:30 p.m.

In response to a question by Chair Hay, Mr. Fujimoto responded that there is a letter dated June 12, 2001 from the Hotel Employees, Restaurant Employees Union Local 19 which responds to staff's response to the Union's draft EIR comments, a letter from the County of Santa Clara dated June 8, 2001, which they have since rescinded, and a letter from **Dave Richerson**.

After noting the rendering of the Renaissance Hotel presented to the Commission, Chair Hay asked the architect to go through and identify the changes from the original design to the new design requested for approval.

Milton Anderson of Merriman Associates, 8111 Preston Rd., Suite. 350, Dallas, TX 75225, explained that after presenting the design to Marriott Corporate, which is a group that also reviews designs of the Marriott products, they wanted to see something more progressive, not necessarily contemporary or modern, but sort of progressive, specifically, the mansard roof piece. After looking at the adjacent Cisco buildings a new elevation developed; the floor plans and courtyards have not changed, but the Cisco roof, colors, materials and metal were worked into the new design while still making it look like a hotel and not an office building, to break the building up into pieces. The punched openings provide relief and the material on the building creates some shade and shadow in an economical way using sunlight. Mr. Anderson noted that a foot to the windows has been added to increase the punched openings with glass and the metal eyebrows help the scale of the building and adds a crown on the building.

In response to Chair Hay's question about the top floor of the original design having windows all the way around it, the awnings at the bottom level, and the fountains, Mr. Anderson confirmed that the glass pieces added are bigger. However, different elements have been added replacing some of the original glass on the top under the roof.

Mr. Anderson added that there is still a streetscape so people

can walk up close to the building and that the fountains are still proposed.

Chair Hay stated that, to him, related to parking, the overriding issue on this particular project is whether or not the Commission should increase the FAR given the letter this evening from the Hotel Employees Union stating there was a rule of thumb about how many employees you should hire for this type of hotel. He felt the Renaissance in San Francisco should be looked at rather than the hotels in Texas in the analysis, as well as the ratio here in Milpitas. Based on the Local 19 Union letter, the ratios are higher at the hotels here in Milpitas, as well as at the Renaissance Stanford Court in San Francisco.

Mr. Mahoney, pointed out that the information he provided to staff is based on properties owned and operated by Marriott, so it's factual, it's current, and it's up-date for full service hotels. He noted that the Union's comparisons don't match up with actual current operating histories.

Permit Center Manager, James Lindsay, in response to Chair Hay's question about the ratio for the Renaissance in San Francisco, stated that it is in line in the high .40's to the low .50's, consistent with the local Embassy and the Sheraton staff surveyed in January, which is encouraging and verifies that staff compared apples to apples. Mr. Lindsay noted however, that if it turns out for whatever reason that Renaissance ends up with a little bit more employees than they are projecting, then they would be even more in line with the parking survey.

In response to Chair Hay's question about whether the traffic impact analysis projections of 400 to 440 parking spaces were based on how many employees were at the hotel, Mr. Lindsay stated it was based on the number of spaces occupied, number of rooms, whether or not the conference facilities were booked and whether the restaurants were booked and did not include a factor for employee parking because when you survey a service-orientated business, you have a mix of employees and customers and you're surveying the number of cars parked in

the parking lot, including both employees and customers.

**Public Hearing
Opened**

Item No. 2

Chair Hay opened the public hearing on item No. 2.

Enrique Fernandez, business manager for Local 19, 257 McLaughlin Ave. strongly recommended that the Planning Commission delay the approval because the numbers used seem one-sided, and parking should be mitigated. He felt that it is unclear who will be responsible for monitoring the parking impact and whether it is enforceable at a later date.

David Richerson, 1920 Yosemite Dr., stated that not all documents got out to the public for review because on Monday, the response to comments addendum was not at the Milpitas Library, and it was still not at the Milpitas Library today. He also stated his displeasure with the editing and abridgement of the public comment regarding something as important as the Draft EIR and the responses to it because it paints a totally different picture from what originally was asked. Mr. Richerson felt the only element that was addressed in the addendum was the complete maximum building occupancy limits for the project which was partially answered by reference to the Uniform Building Code and noting the occupancy limits, relative to the 18,000 sq. ft. of conference room space, but that considered only the conference rooms, not special events like a New Year's Eve bash with a live band, where you could have up to 1,200 people just in the conference rooms and ballrooms, not including people who are booked in rooms, and employees. Mr. Richerson stated that his comments during the first Planning Commission meeting, the fact that this property is owned by the City of Milpitas, were not reflected as were the reason for the 2-level parking structure to a one level parking structure change cutting the parking spaces in half. Mr. Richerson reaffirmed his statement that the Redevelopment Agency incentives haven't been fully used to make sure parking provisions make it into this project. He did not understand the logic of not going down the second level due to dewatering needed anyway. Mr. Richerson

reiterated that he felt there is no way for the public to have access to documents and comment on them and that the public did not have the original 45 day review period for those documents nor the 10 day review on the final document that was never put in the Public Library. Because he knew what to ask for he found out the meeting for May 30, 2001 had been canceled and that the final EIR hadn't been published yet. Mr. Richerson closed with acknowledging staff did send him a copy of it as soon as it was out.

There were no other public speakers.

**Close Public
Hearing**

Item No. 2

Motion to close the public hearing.

M/S: Nitafan/Chua

AYES: 6

ABSENT: (1) Williams)

In response to Chair Hay's question about the EIR process and the City's process, Mr. Lindsay reviewed the process steps. He stated as required by the California Environmental Quality Act, a notice of preparation is prepared and circulated to what staff sees as potential responsible agencies, which includes neighboring jurisdictions, basically jurisdictions which could have some type of authority or regulatory control over the project.

Examples of these agencies would be the Valley Transportation Authority, County Roads & Airports, City of San Jose, City of Fremont, Air Quality District, and the Regional Water Quality Control Board of California. The notice of preparation is sent out to all these agencies with basically staff or City's initial assessment of what the environmental impact may be without any detailed analysis. Staff then goes through a checklist identifying, with input, the impacts of the project. The City

then drafts the Draft EIR and circulates it for public review in a very formal fashion, similar to a public hearing. The City of Milpitas mails the Draft EIR to the State of California, Governor's Clearinghouse, and asks them to circulate among State agencies, and we also mail it directly to all the local agencies of concern.

We advertise and notice in the paper that this EIR is out for public review and that copies are available at City Hall or the Library. Mr. Lindsay noted that historically, staff holds a public hearing to educate the public to have an opportunity to come and ask questions of technical staff. That review period ends in 45 days, at which time any comments submitted during that timeframe are responded to in writing and if necessary staff makes minor technical changes to the EIR. Staff then puts together the mitigation-monitoring program and a combination of those three things make up what's called the Final EIR.

The actual guidelines within the California Environmental Quality Act are quite loose when it comes to circulating the Final EIR. It says the City may circulate for public review and send it out to the responding agency for their review. The City's practice has been to give a copy of our responses to all of the concerned people who have commented on the draft, along with a letter stating the upcoming hearing dates on the project so they can actually attend the meeting as well. Copies are not traditionally put at the library for the Final EIR. A public hearing notice is put in the paper that an EIR is under consideration for certification, and we do the notification list again as we would for any public hearing.

After questions from Commissioner Sandhu regarding what options do those agencies or individuals with comments not satisfied with staff's response have, Mr. Lindsay said that the City is not legally bound to respond to them; however, as a courtesy, the comments are provided to all the decision makers, and are recorded within the public discussion so that within the public record, those letters are made evidence. The Planning Commission or City Council evaluates those letters as they would any public document given to them during a public

hearing.

Commissioner Sandhu felt there was not enough time to evaluate letters received before the meeting and was concerned with what happens if the mitigation program doesn't work; specifically parking monitoring.

Mr. Lindsay responded by stating that it is staff's opinion that all of these measures, when implemented will work. If staff is incorrect, and the parking is overflowing off the site, that is the value of the use permit process to the Commission, because the Planning Commission can bring that business back to impose further controls.

City Attorney Kit Faubion added that the enforcement procedure is to go through potential revocation proceedings. With this big project, the City has proposed a much tighter monitoring and compliance and mitigation program compared with other routine parking situations. Attorney Faubion added that the first line is the Commission's continuing jurisdiction over a use permit and the code enforcement process that the City has for those permits.

Vice Chair Nitafan commented that he felt uncomfortable with the parking mitigation because the valet service occurs when the project is already done and after the problems arise.

Mr. Lindsay stated that due to different opinions of what the parking demand is, the proposal is to start the business opening with a mandatory valet parking program which will provide 40 additional parking spaces. Parking will be monitored for three months, and then they are going to take away the valet parking program for a period of three months and survey the impacts that would have on the site and adjacent areas. The conclusions of both of those periods surveyed would go back to the Planning Commission for an evaluation of what is the true demand and whether the valet parking program is necessary full time, seven days a week, and whether there is additional parking mitigation necessary

after six months of operation. Mr. Lindsay also commented that if the public parking doesn't work, the applicant must start pursuing off site parking arrangements with adjacent property owners, for instance, the VTA; admitting that the agreement with VTA is not in place now, and that similar to the Great Mall, different phases of parking mitigation might need to be put in place.

To further address Vice Chair Nitafan's concern, Mr. Lindsay suggested a written requirement for a longer period of valet parking and not taking away the valet parking program; possibly, after six months with valet, then provide the survey data. With valet parking, the mitigation is quantifiable and would meet one of the higher tiers of demands.

City Attorney Faubion informed Commissioner Chua, due to a question about conditions running with the land, that a conditional use permit runs with the land and therefore no special condition to that effect is needed for this project.

Upon request of the Commission, Mr. Lindsay provided further explanation of his alternative. He stated that during the three month period with valet parking, an independent consultant would go out and do parking surveys during the three month period to understand the number of rooms that were occupied, understand the conference room, bookings, understand the restaurant bookings, and get an idea of the demand during that time, and then get an idea of how many parking spaces were actually utilized, and to what extent the valet parking service was used.

The next three months you would take away the valet parking program and do the same analysis for comparison. The analysis of those two time periods would go back to the Commission with some recommendations regarding continuing the valet service or other mitigation. A third party, independent consultant, under contract with the City would perform the survey, but at any time the Commission can ask for a re-review if they feel it necessary.

Chair Hay commented that there is only so much land available, and participation in Eco Pass and other programs may not be as great as we would hope, and the VTA may decide not to grant the hotel use of its lot, which would be loss of control of the project. He shared an observation he made of the Great Mall parking on Saturday near Home Depot without Home Depot being open for business yet. He then asked what happened to the second level of parking that he thought was an absolute. Mr. Lindsay began to address Chair Hay's points by stating demand can be reduced as was done with the Great Mall, by limiting conference rooms, and the first logical place to look is limiting the amount of conference room square footage they can rent at any one time.

Chair Hay felt the revocation process for the use permit itself can be fairly time consuming and difficult, and a fairly simple and quick solution was best. Mr. Lindsay recommended additional reviews by the Planning Commission with public hearing notice to all property owners within 300 ft. $\frac{3}{4}$ those impacted by any parking problems. In regards to the VTA not necessarily wanting to do a shared parking arrangement, there is a parking deck over on the west side which is about to go on line, but it is still under construction and after a public awareness of the garage, Mr. Lindsay felt congestion would ease.

Chair Hay asked about the possibility, realistically of some sort of parking deck on the VTA property. Mr. Lindsay answered yes, with the appropriate funds that would be possible.

Commissioner Lalwani stated that she was uncomfortable with the parking situation because what if the peak time changed to evening due to banquets.

Chair Hay asked again why a second level of parking couldn't be added. **Michael. Mahoney** indicated that was discussed internally with staff. He also cautioned the Commission about comparing the retail use to a hotel use from a parking scenario, since with retail parking lots, almost every customer

comes in a car, whereas when you look at a hotel property, roughly 50% arrive in an automobile. He also emphasized that parking is as important to them as it is to the Commission because if customers can't adequately and conveniently get to the building and make use of the facilities, they are going to go somewhere else. He concluded with a remark about the Marriott near the airport and that when the conference facilities are full, they are at only 90% parking capacity.

In response to Chair Hay's question about perceived clients, Mr. Mahoney stated that most of their customers will be people connected to the high tech industry here in Silicon Valley, coming in for business and/or training seminars and using the conference facilities; and coming from out of town and using the hotel shuttle service, but also from local high-tech companies.

Upon Commissioner Chua's request, Mr. Lindsay reviewed the peak parking demand and supply for the Renaissance Hotel to be around 362 spaces, and as a condition of approval, staff was recommending the Commission require the hotel to start off with an additional 40 spaces through a valet program, take away those spaces, show the difference to the Commission and let the Commission decide whether or not there is a parking problem at this location. He also noted other mitigation measures available such as off-site parking, spelled out in the recommended conditions of approval No. 8.

Chair Hay asked Mr. Lindsay to clarify mitigation to a point of insignificance and the statement of overriding considerations, relative to adjusting conditions. Mr. Lindsay explained that, in terms of process, the Commission can modify the mitigation-monitoring program and conditions of approval recommend to the Council that they take into consideration in their deliberations. This would be a recommendation that the City Council certify the EIR with the changes noted by the Commission. Mr. Lindsay cautioned the Commission about requiring a new mitigation measure that creates additional impacts without considering those environmental impacts and recirculating the EIR.

Commissioner Chua suggested changing the first three months to first four months in condition No. 8, to give the hotel a longer time to establish. She then suggested starting the survey on the fourth month of business and for a period of three months.

After Mr. Lindsay asked whether the desire was to have the valet parking in place from the day of the opening, Commissioner Chua said yes and further clarified that the survey should be started three months after they open for a period of three months, and then three months without valet parking. At this point questions arose about removing valet parking.

Chair Hay expressed more comfort with continuing the monitoring for three years and having the issue come back to the Commission for review, but questioned doing a formal study every six months.

Mr. Lindsay attempted to pull together Chair Hay's and Commissioner Chua's concerns by restating the objective as having a review period of up to three (3) years; every six (6) months the Commission would like this item before them; however, the Commission would like to see the first review with the parking study. The parking study will be completed within the latter half of the first six- (6) month period. The parking study will show the previous three- (3) months worth of data; at that time the Commission evaluates the study to determine whether an additional study is to be made, whether the Commission wants to try different programs, and whether additional studies are necessary.

Chair Hay asked if there was consensus. Commissioner Chua asked about adding on another condition that relied on a third party (VTA) who is not a part of the applicant's request.

Mr. Lindsay advised against the additional VTA condition. Chair Hay asked Mr. Lindsay additional questions regarding

responses to the EIR, that Mr. Lindsay confirmed were conditions of approval. Chair Hay, regarding condition # 11, asked Mr. Lindsay to explain what Commuter Check is.

After Mr. Lindsay explained that Commuter Check is not necessarily discounted ridership as the Eco Pass is and that the advantage of Commuter Check is an employer does not have to purchase it for every single employee - and it is available on the regional transportation system. Chair Hay requested to add the condition that whatever that transit incentive program is, it come back to the subcommittee.

Chair Hay asked whether there was consensus and the Commission responded affirmatively, after a clarification from Commissioner Chua that the hotel should be able to have their own incentive program internally that is more effective than any of the two suggested in the condition.

Chair Hay asked what was meant by "comment noted", in the EIR, in response to a bicycle facility recommendation.

Mr. Lindsay stated that it was staff's option that the bicycle facilities for a hotel type of use didn't quite fit the type of use and there are facilities already in place at the park 'n' ride lot. So, comment noted means staff disagrees.

Chair Hay asked about a comment regarding a new bus stop on the south side of Barber Lane, south of the service entry.

Mr. Lindsay indicated that there's a condition of approval from the Engineering Department (#22) that covers that if it's determined necessary. Mr. Lindsay corrected himself with the clarification of bus pad vs. bus stop; the latter being a sign. After discussion regarding differences, Chair Hay stated he wanted bus shelter added to the condition.

Vice Chair Nitafan asked whether a partial second level garage was possible. Mr. Lindsay reminded the Commission that falls under recirculating the Environmental Impact Report with the

change in the project as discussed earlier, so there are implications of that decision.

Commissioner Chua brought up the subcommittee's landscape approval of the Veritas campus, which camouflages its backflow preventers, and felt this should be a condition as well and wanted to see it require subcommittee review.

Mr. Lindsay suggested adding it in as a brand new condition of approval (No. 25) that the specific landscaping details come to the subcommittee.

Chair Hay asked for and received consensus on new Condition No. 25. He then asked Mr. Lindsay to summarize what happened with the original designs at the study session.

Mr. Lindsay stated that the study session was a non-advertised public hearing and more of an introduction to the project, whereas the EIR was a formal public hearing to take public testimony and answer questions on the EIR, so they were technically, on a process level, very separate and very different. Mr. Lindsay added that all of tonight's items required a public hearing.

Chair Hay polled the audience to see if anyone wanted to talk about the issue of the zoning ordinance change, the PUD and the EIR. After seeing somebody for the zoning ordinance change, the Chair moved ahead with the EIR stressing his desire for the maximum in terms of the public process.

Commissioner Galang asked whether the public hearing for the EIR could be on a future date. Chair Hay said that it was his understanding that it needs to be taken in turn. He reviewed the order, adding that the PUD and use permit can be dealt with together, but the EIR must be first. Discussion ensued about the zoning and use permit being continued, after which there was consensus to move forward.

Dave Richerson interjected with points of information stating that at the March 28, 2001 meeting; Tom Mastors gave him the price of \$5 million related to the second level garage. His second point of information was disagreement with Mr. Lindsay because he has seen quite a few Final EIRs at the Library that the City has sent to the Library.

Recess

Chair Hay called a 10 minutes recess at 9:10 p.m. when Chair realized Commissioner Chua left the room momentarily.

Motion on EIR

Following the recess at 9:20 p.m., the Chair asked for a motion on the EIR.

Motion to recommend to the City Council the certification of the EIR, the statement of overriding considerations and the mitigation and monitoring program, including the additions and subtractions to the conditions that have been discussed.

M/S: Nitafan/Sandhu

AYES: 6

ABSENT: 1 (Williams)

Chair Hay then asked then for any further public comment on Ordinance No. 38.757, the FAR Zoning Text Amendment.

Dave Richerson, 1920 Yosemite Drive, stated that this was a very substantial exception to the FAR and hoped the Commission doesn't take amendments to the zoning ordinances lightly and not set a precedent.

**Motion on
Adoption of
Ordinance No.
38.757**
*FAR Zoning Text
Amend.*

Chair Hay asked for the Commission's pleasure on Ordinance No. 38.757, the FAR Zoning Text Amendment for this project.

Motion to recommend adoption of the ordinance.

M/S: Nitafan/Sandhu

AYES: 6

ABSENT: 1 (Williams)

**Public Comment
on PUD No. 78**

Chair Hay opened item PUD No. 78 to public comment.

Dave Richerson stated that the parking issues and possible mitigation weren't fully investigated, and there were very loose conversations with the VTA.

Motion to close the public hearing.

M/S: Nitafan/Sandhu

AYES: 6

ABSENT: 1 (Williams)

**Close Public
Comment**

Motion to close public comment.

M/S: Nitafan/Sandhu

AYES: 6

ABSENT: 1 (Williams)

**Motion To
Approve PUD No.
78, Use Permit
No. 1590
Planning Text
Amend. And EIA
No. 756**

Motion to approve PUD No. 78, Use Permit No. 1590, Planning Text Amendment, and EIA No. 756, with the amendment of special conditions Nos. 8, 11, and 22 as already discussed and the addition of No. 25 regarding landscaping.

M/S: Lalwani/Galang

Commissioner Chua asked whether the motion was subject to the conditions, the findings, and special conditions as submitted.

Commissioner Lalwani said yes, and reaffirmed the addition of No. 25.

Chair Hay reviewed the changes to Nos. 8, 11, and 22, and new condition No. 25, and asked for those in favor to state so.

AYES: 6

ABSENT: 1 (Williams)

Chair Hay requested staff look at the City policy regarding making documents available to the public. He stated his desire to have all documents made available to the public at the Library as a written policy, and to have staff submit a report to ensure consistency. Planning Manager Heyden confirmed that staff would prepare a report.

IX.
ADJOURNMENT

There being no further business, the meeting was adjourned at 9:37 p.m. to the next regular meeting of June 27, 2001.

Respectfully Submitted,

TAMBRI HEYDEN
Secretary

DONNA GRANLUND
Deputy City Clerk

VICKI LINDEMAN
Planning & Neigh. Pres. Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

June 27, 2001

**I. PLEDGE OF
ALLEGIANCE**

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL

Present: Hay, Nitafan, Chua, Galang, Lalwani, Sandhu, Williams

Absent: None

Staff: Faubion, Fujimoto, Guido, Heyden

**III. PUBLIC
FORUM**

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers.

**IV. APPROVAL OF
MINUTES**

June 13, 2001

Chair Hay called for approval of the minutes of the Planning Commission meeting of June 13, 2001.

Vice Chair Nitafan corrected the minutes pointing out that the motion for approval of the May 23, 2001 minutes was made by Commissioner Lalwani and seconded by Vice Chair Nitafan.

Motion to approve the minutes of June 13, 2001 as amended.

M/S: Nitafan/Sandhu

AYES: 6

Abstention: 1 (Commissioner Williams stated he was not present at the June 13 meeting.)

**V.
ANNOUNCEMENTS**

Planning Manager, Tambri Heyden, reported the consensus is to hold the Commission workshop on August 29, 2001 at 6:30 p.m. at Milpitas Unified School District Chambers.

Vice Chair Nitafan announced a correction to his e-mail address.

**VI. APPROVAL OF
AGENDA**

Chair Hay called for approval of the agenda.

Motion to approve the agenda as submitted.

M/S: Lalwani/Nitafan

AYES: 7

VII. CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item. There were no changes.

IX. PUBLIC HEARINGS

Chair Hay opened the public hearings on consent item Nos. 1 through 7.

There were no speakers.

Regarding Use Permit No. 1481, Commissioner Chua commended Heald College for their adherence to the TDM program.

Motion to approve the consent calendar with staff recommendation and special conditions as follows:

*** 1. USE PERMIT NO. 1481 AND "S" ZONE APPROVAL AMENDMENT:** A 24 month review for parking reduction and minor site improvements approved at 341 Great Mall Parkway (APN: 86-24-36). Applicant: Heald College. Project Planner: Joseph J. Oliva III, 586-3290. *(Recommendation: Approval with Conditions)*

*** 2. USE PERMIT NO. 1588:** Request to allow rooftop antennas and equipment in an enclosure at 206 Railroad Avenue (APN: 028-23-009). Applicant: Sprint PCS. Project Planner: Troy Fujimoto, 586-3287. *(Recommendation: Approval with Conditions)*

*** 3. USE PERMIT NO. 1595:** Request to allow a 1,650 square foot educational facility at 75 North Milpitas Boulevard (APN: 028-22-132). Applicant: SCORE! Educational Centers, Inc. Project Planner: Troy Fujimoto, 586-3287. *(Recommendation: Approval with Conditions)*

*** 4. USE PERMIT NO. 1587 AND "S" ZONE/USE PERMIT NO. 644 AMENDMENT:** A request to install telecommunications antennae, and a tile roof mansard

screening structure at the Embassy Suites Hotel, located at 901 East Calaveras Boulevard. (APN: 028-26-001). Applicant Verizon Communications. Project Planner: Frank Guido, 408/586-3284. *(Recommendation: Approval)*

*** 5. USE PERMIT NO. 1599 AND "S" ZONE AMENDMENT:**

A request for approval of two monument entry sign structures, at Yosemite Business Park, southeast of Sinclair Frontage Road and Yosemite Drive (APNs: 086-31-001, 022, & -027). Applicant WP Investments. Project Planner: Frank Guido, 408/586-3284. *(Recommendation: Approval)*

*** 6. USE PERMIT NO. 1597 AND "S" ZONE AMENDMENT:**

A request for approval of a temporary back-up power generator trailer at Building "B" 380 Fairview Way (APN: 022-38-16) Applicant Applied Materials. Project Planner: Frank Guido, 408/586-3284. *(Recommendation: Approval)*

*** 7. USE PERMIT NO. 1526 & "S" ZONE APPROVAL TIME EXTENSION.** A request for an 18 month time extension for a gas station, car wash, fast food restaurant with drive through service, and office at the southwest corner of California Circle I-880 Dixon Landing Road off-ramp (APN 22-37-040). Applicant: MVA Resources, Inc. Project Planner: Frank Guido, 408-586-3284. *(Recommendation: Approval)*

M/S: Nitafan/Williams

AYES: 7

NOES: 0

VIII.
PRESENTATION
On City's GIS
project

Ms. Heyden introduced Bill Marion, Chief Information Officer and Alan Rich, Geographic Information System (GIS) Specialist. Mr. Rich gave a presentation as a follow-up to an earlier presentation given during the Capital Improvement Program approval process. The presentation included an overview of GIS in the City of Milpitas, its current usage and plans for the immediate future. The Base Map data for City staff use is nearly completed with in excess of 45 smart map layers which include the location of streets, fire hydrants, electric meters, parcel and street center line data, etc.

The GIS software is very flexible and can read common exchange formats to make maps. Mr. Rich said he could provide a digital map of parcel data on a CD ROM, specifically for Commissioners, if they are interested. Certain products, including a Website map showing public facilities and amenities will be free to the general public. Ortho photos (aerial photography images) will be sold at a nominal fee to cover the City's production costs.

Mr. Rich responded to several points of interest and questions from all Commissioners. Once the data map is fully deployed on the Milpitas Website, Commissioners will be able to key in an address by parcel number. City assets will be mapped. The outline of light rail line can be viewed. Sex offender information will be available to the public through the Police Department. The system will have the capability to include building elevations, in addition to the building outline, but that application is costly and a long, detailed process. If the need and/or requirements were there, the budget could be looked into further.

More applications will be developed including bus stops, parks, hospitals; schools are already on the list of applications. Although the CD ROM information has not been updated, there have been some corrections made to the information with the cooperation of Santa Clara County.

As an additional point related to Commissioner Sandhu's

earlier question, Ms. Heyden noted that once the system becomes parcel based and the zoning ordinance is available on-line, citizens will be able to determine their zoning and related setback and use information just by typing in their address. This will relieve Planning staff of these basic types of zoning calls.

Chair Hay thanked the IS Department for the presentation and for taking the time to share the information with the Planning Commission.

X. OLD BUSINESS
Subcommittee
Appointments
Summer 2001
quarter

Commissioners Galang and Lalwani will be the members and Vice Chair Nitafan becomes the alternate.

As a point of information, Chair Hay suggested that since the rotation system adopted by resolution requires a Commissioner to serve nine consecutive months, including three months as an alternate, the Bylaws Subcommittee might want to develop a different system or keep the same process.

XI.
ADJOURNMENT

There being no further business, the meeting was adjourned at 7:55 p.m. to the next regular meeting of July 11, 2001.

Respectfully submitted,

TAMBRI HEYDEN
Secretary

VICKI LINDEMAN
Planning & Neigh. Pres. Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

July 11, 2001

**I. PLEDGE OF
ALLEGIANCE**

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL

Present: Hay, Nitafan, Chua, Galang, Lalwani, Sandhu,
Williams

Absent: None

Staff: Faubion, Fujimoto, Heyden

Chair Hay stated that since there is no written procedure on whether the selection of new Commission officers should take place at the beginning or at the end of the meeting, he asked for the Commission's preference. There was consensus to address item 5 at the end of the meeting as shown on the agenda. Chair further stated that the Bylaws Subcommittee would include the officer selection procedure issue in their draft of the Bylaws.

III. PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Ms. Heidi Wolf-Reid, representing the Housing Action Coalition and its Housing Element Subcommittee, requested that outreach on the Housing Element, in the early stages of development, include members of the Planning Commission, to identify and address the needs. Planning Manager, Tambri Heyden, confirmed to Chair Hay that the consultant has been hired and stated she would relay comments to the appropriate staff.

IV. APPROVAL OF MINUTES

June 27, 2001

Chair Hay called for approval of the minutes of the Planning Commission meeting of June 27, 2001.

Motion to approve the minutes of June 27, 2001 as submitted.

M/S: Lalwani/Williams

AYES: 7

**V.
ANNOUNCEMENTS**

Ms. Heyden reported that at the City Council meeting of June 19, 2001, the Renaissance Hotel item was continued to the August 7, 2001 Council meeting. Council wanted the revised elevations to go to the Planning Commission Subcommittee meeting of July 25, 2001. If the Planning Commission, as a whole, would like to see the revisions, the item would be agendaized for the July 25, 2001 Planning Commission meeting. Ms. Heyden clarified for the Chair that the Commission would be looking at not only the roof design, but at all the elements of the building elevations.

**VI. APPROVAL OF
AGENDA**

Chair Hay called for approval of the agenda.

Attorney, Kit Faubion requested that item IX. NEW BUSINESS, No. 4 be continued to the next meeting. Ms. Heyden confirmed to Chair Hay that it could be placed on that consent calendar.

Motion to approve the agenda as amended.

M/S: Lalwani/Nitafan

AYES: 7

VI. CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Chair Hay opened the public hearings on consent item Nos. 1 and 3.

There were no speakers from the audience.

Chair Hay and Ms. Heyden clarified for Commissioner Lalwani that after these Use Permit requests were already legally advertised problems occurred with the applications requiring them to be continued.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

*** 1. Use Permit No. 1600:** Request to install and operate a food concession stand at the Home Depot at 1177 Great Mall Drive (APN: 86-24-53). Applicant: H.D.X. Inc. Mark Kelly.
Project Planner: Annelise Judd, 408/586-3273
(Recommendation: Continue to July 25, 2001)

*** 3. Use Permit No. 1598:** Request to co-locate telecommunication antennas on an existing 100-foot monopole at 200 Serra Way (APN 86-7-31, 32). Applicant: Metro PCS. Project Planner: Troy Fujimoto, 408/586-3287
(Recommendation: Continue to July 25, 2001)
Chair reported that public hearing items Nos. 1 and 3 would remain open and reaffirmed they were both continued to the July 25, 2001 Planning Commission meeting.

M/S: Nitafan/Sandhu

AYES: 7

VIII. PUBLIC HEARINGS

Chair Hay opened the public hearing.

There were no speakers.

2. USE PERMIT NO. 1586:

*48-seat Full-Service
Restaurant (Tofu
House)*

Associate Planner, Troy Fujimoto presented a request for a 48-seat, full-service restaurant at 231 W. Calaveras Boulevard. The restaurant has been operating without a use permit and the applicant is now reapplying (the original application was placed on the PC agenda in May 2001) to bring his restaurant into compliance. Staff recommends 37 seats, calculated on original parking requirements, instead of 48 seats as requested by the applicant. Staff is not supporting 48 seats due to no excess availability of parking stalls.

He explained that under the zoning ordinance, based on existing conditions, 37 seats can be allowed. Additionally, to address the complaints of odors from this area of the shopping center, staff is recommending special conditions to minimize the odor impact including installation and maintenance of an odor arrester in their garbage bin as well as locating the garbage bins away from adjacent residential uses. Staff recommends approval based on the findings and 17 special Conditions of Approval (COA) as noted in the staff report.

In response to questions from Chair Hay and Commissioners, Mr. Fujimoto stated the previous tenant was a bakery; there was miscommunication between owner and tenant about an existing use approval. Later Ms. Heyden verified that the appropriate City staffs met with the applicant approximately 3 weeks ago identifying the violations and to establish compliance in a phased approach. The applicant was given a 24-hour period to address immediate concerns and they were given a deadline to turn in the application. The importance of compliance was stressed and staff explained that eviction is a recourse the City could take. An interpreter for the applicant explained to the applicant the process that could occur in the

event that the application is not approved.

Mr. Fujimoto confirmed that the interpreter, the applicant's sister, explained to the applicant the process that could occur in the event that the application is not approved. The applicant indicated their okay with the special conditions as written in the staff report.

In response to a question from Chair Hay, Mr. Fujimoto explained restriping and parking study options. Additionally, the applicant could apply for a use permit for a reduction in parking. Mr. Fujimoto assured the Chair that the applicant understands that even if they apply for a reduction in parking, there is no guarantee of a favorable decision - there could be the chance it would be denied.

Commissioner Galang expressed concern regarding COA No. 6 and suggested that the wording include that training sessions to instruct employees on the proper procedures in the handling and disposal of food items, etc., should be an ongoing program. Ms. Heyden suggested additional wording at the end of the paragraph include: "to address training for new employees in the preparation of food and business operations on an annual, recurring basis."

Addressing Commissioner Williams' concern with COA No. 7, Mr. Fujimoto indicated that the wording will include that the business owner shall also post signs in "Spanish" as well as in English, Korean and Vietnamese, which identify procedures for the food delivery and disposing of garbage.

**Close Public
Hearing**

Item No. 2

Motion to close the public hearing.

M/S: Sandhu/Nitafan

AYES: 7

To address Commissioner Chua's request to add COA No. 18, Ms. Heyden suggested that the wording read: "Prior to building permit issuance, the property owner shall submit a letter to the Planning Department stating that staff has provided to him a copy of the City Zoning regulations pertaining to restaurants."

Motion to approve Use Permit No. 1586 with findings and subject to special conditions as amended and as noted in the discussion above.

M/S: Sandhu/Nitafan

AYES: 7

**IX. NEW
BUSINESS**

4. Amendments to preliminary plans for Redevelopment Project No. 1 and Great Mall Redevelopment Project.

Amendments to preliminary plans for Redevelopment Project No. 1 and the Great Mall Redevelopment Project, related to the addition of two parcels of land to the Great Mall Redevelopment Project area to facilitate the continued location and maintenance of the two highway locational signs for the Great Mall. Staff contact: Steve Mattas, 408/586-3040 or 510/351-4300.

By earlier request from Attorney Faubion, Chair Hay continued this item to the next Planning Commission meeting scheduled for July 25, 2001.

5. Selection of Planning Commission Officers

Chair Hay opened nominations for Planning Commission Chair.

Commissioner Sandhu nominated Commissioner Nitafan for Chair.

Commissioner Williams nominated Commissioner Hay for Chair.

Motion to close nominations for Chair.

M/S: Chua/Nitafan

AYES: 7

Commissioner Nitafan was elected Planning Commission Chair. (4 votes for Nitafan, 2 votes for Hay, and Commissioner Lalwani abstained).

Commissioner Chua thanked Chair Hay for his service as Chair.

Chair Nitafan stated he is looking forward to serving as Chair.

Chair Hay opened nominations for Planning Commission Vice Chair.

Commissioner Williams nominated Commissioner Sandhu.

Commissioner Galang nominated Commissioner Hay
(Commissioner Hay declined).

Motion to close nominations for Vice Chair.

M/S: Chua/Nitafan

AYES: 7

Commissioner Sandhu was elected Planning Commission Vice Chair.

X. ADJOURNMENT There being no further business, the meeting was adjourned at 8:05 p.m. to the next regular meeting of July 25, 2001.

Respectfully Submitted,

TAMBRI HEYDEN
Secretary

VICKI LINDEMAN
Planning & Neigh. Pres. Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

July 25, 2001

**I. PLEDGE OF
ALLEGIANCE**

Chair Nitifan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL

Present: Nitafan, Sandhu, Chua, Galang, Lalwani, Hay, Williams

Absent: None

Staff: Burkey, Faubion, Fujimoto, Guido, Heyden, Rush, Pereira

**III. PUBLIC
FORUM**

Chair Nitifan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, mentioned the Renaissance Hotel and operational problems with Home Depot. He stated that it is his hope the Planning Commission stands its ground on its future recommendations, regardless of what Council may or may not do. Chair Nitafan reported that there are Conditions of Approval (COAs) currently in place that will be complied with.

**IV. APPROVAL OF
MINUTES**

July 11, 2001

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of July 11, 2001.

Commissioner Lalwani corrected the minutes on Page 4 indicating that the vote for Chair was 4 votes for Nitafan, 2 votes for Hay, and she abstained.

In response to **Dave Richerson's** request that in future minutes, the names of those who vote no on any item be included on any item, Commissioner Hay requested that the Bylaws Subcommittee discuss the issue.

Motion to approve the minutes of June 11, 2001 as corrected.

M/S: Lalwani/Sandhu

AYES: 7

**V.
ANNOUNCEMENTS**

Ms. Heyden reported that the Bylaws Subcommittee meeting is schedule for August 1, 2001 at 5:30 p.m. at City Hall. The August 29, 2001 Planning Commission Workshop will include Midtown discussion.

Commissioner Chua mentioned the upcoming Arts & Wine Summer Festival, August 18-19, 2001, from 10:00 a.m. to 6:00 p.m., sponsored by the Milpitas Chamber of Commerce.

Commissioner Williams reported on banners exceeding the City's ordinance and which need to be removed. He requested that the Code Enforcement staff look into this issue (Unicef's courtyard on Barber Lane) and provide a status report at the next meeting.

Additionally, Commissioner Williams requested a status update from staff at the next meeting, regarding Home

Depot's landscaping, specifically, the double row of trees along Main Street.

Commissioner Hay requested a status update from Code Enforcement staff on the illegal A-frame at Crescent Square.

Vice Chair extended an invitation to the Milpitas Cultural Night scheduled on August 26, 2001 at 5:30 p.m. at the Milpitas Community Center. General ticket price is \$5.00.

Chair Nitafan presented a plaque to former Chair Hay in appreciation for his outstanding service to the Milpitas community as Planning Commission Chair from 1997 to 2001. Commissioner Hay expressed his thanks to the Commission.

VI. APPROVAL OF AGENDA

Chair Nitafan called for approval of the agenda.

There were no changes to the agenda.

Motion to approve the agenda.

M/S: Sandhu/Lalwani

AYES: 7

VI. CONSENT CALENDAR

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

Chair Nitafan opened the public hearings on consent item Nos. 4 and 5.

There were no speakers from the audience on either item.

Chair reported that public hearing item No. 4 will remain open and continued to the August 8, 2001 Planning Commission meeting.

*** 4. USE PERMIT NO. 1598:** (Continued from July 11, 2001)
Request to co-locate telecommunication antennas on an existing 100-foot monopole at 200 Serra Way (APN: 86-07-032). Applicant: MetroPCS. Project Planner: Troy Fujimoto, 408-586-3287. (Recommendation: Continue to August 8, 2001)

Motion to close the public hearing on consent item No. 5.

M/S: Sandhu/Lalwani

AYES: 7

*** 5. USE PERMIT NO. 1601:** Request to temporarily locate two RV Mobile Homes for security and work at 115 North McCarthy Boulevard (Veritas approved campus site) (APN: 22-56-002). Applicant: Kirk G. Forman and Richard E. Barr. Project Planner: Troy Fujimoto, 408-586-3287. (Recommendation: Approval with Conditions)

Motion to approve the consent calendar.

M/S: Hay/Lalwani

AYES: 7

VIII. PUBLIC HEARINGS

1. USE PERMIT NO. 1572:

"S" Zone

Amendment and

Approval of EIA 771

(Nextel)

Chair Nitafan opened the public hearing.

Associate Planner, Steve Burkey presented a request for a 60-foot tall monopole for cellular phone panel antennas and municipal emergency radio antennas on it, located next to the Main Fire Station at 777 South Main Street. Staff recommended approval with conditions. Mr. Burkey gave a power point presentation and distributed a Negative Declaration, which was not included in the packet. Hard copy color photo exhibits 1-5 show the antenna configuration currently being proposed. The maximum is 9-feet across, six cellular panels, and 6-foot radio antennas. Exhibits 6-12 depict the proposals staff reviewed but did not accept.

Telecommunications Chair, **George Washburn**, reported that the Fire Department has precedence for use of the top row of the antenna, Police, and Emergency Operation Center (EOC) radio system and Public Works dispatch, use the second row.

Responding to a question from Commissioner Galang, Mr. Burkey confirmed that there are other location options but Nextel claims this is the best.

Following discussion, Commissioner Hay complimented staff for the thorough analysis of this project. **Mr. Washburn** confirmed to Commissioner Hay that the importance of this antenna arrangement is because the Main Fire Station is the alternate EOC center for the City.

Commissioner Chua pointed out that COA #2 in the Staff

Report refers to this Use Permit as No. 1579 instead of 1572.

Commissioner Chua stated that Exhibit #12 is similar to what has been done with Church antennas and she asked about flagpoles as an option. Mr. Burkey explained the difference in the exhibits illustrate the progression of improving the application throughout the process. Exhibit #12 was discarded because there is no co-location of the City's and Nextel's antennas on one monopole. **Mr. Washburn** pointed out that that the antenna cannot be encased.

Fire Chief, Bill Weisgerber, explained that the City could not afford the construction and Nextel will pay \$2,000 a month to the City to occupy the antenna.

Mr. Ashraf Rageh, Zoning Manager for Nextel of California, stated that the Nextel proposal is a compromise to slim up the tower with fewer arrays proposed. The current proposal meets the objectives of all parties.

**Close Public
Hearing**
Item No. 1

Motion to close the public hearing.

M/S: Sandhu/Williams

AYES: 7

Commissioner Chua stated she does not agree with the aesthetics of the monopole, but would support it.

M/S: Williams/Sandhu

AYES: 7

**2. USE PERMIT
NO. 1589:**

*"S" Zone Approval
and Approval of EIA
758 - 25-ft.
monopole
camouflaged as a
tree(Nextel)*

Chair Nitafan opened the public hearing.

Junior Planner, Frank Guido, presented a request for a 25-foot tall monopole, camouflaged as a tree and distributed new condition No. 18 proposed by staff. Staff recommended approval with conditions.

In response to Commissioner Williams comment regarding no Negative Declaration, Mr. Guido stated that the noise from the branches of the monopole is not significant. Regarding the conditions of approval pertaining to maintenance, Mr. Guido confirmed that there is a security, alarm system on the gate and that the stairs are accessible only to Nextel staff.

The applicant, Mr. Ashraf Rageh, Zoning Manager for Nextel of California, agreed that the fence at Dempsey will be repaired and stated a telephone number will be posted for the public to notify Nextel of tangled kites in the antenna, etc.

Following discussion, per the suggestion by Commissioner Williams, COA #7 was amended to add an additional sentence at the end. *"The dense artificial branch screening of the pole and antenna, the green coloration of the antenna, and the simulated bark texture on the pole shall be maintained in perpetuity, and litter falling from or onto the monopole shall be cleaned up."*

Per the suggestion by Chair Nitafan, a new COA # 18 was added which reads: *"The landscape plan on sheet A1 shall eliminate "California Buckeye." The plan shall be modified to include the following changes, contingent on Cal-Trans' approval:*

- *Type II Tree: Change to multi-trunked Acacia baileyana (first preference) or Callistemon viminalis (second preference).*
- *Type III (Shrub): Replace every 4 shrubs (8) of the 32*

McMinn Manzanita with Heteromeles arbutifolia as a shrub (first preference) or Callistemon citrinus as a shrub."

Per suggestion by Commissioner Hay, COA #15 was amended to add an additional sentence at the end. *"Prior to occupancy, the applicant shall have installed, and shall maintain, an entry alarm at the doorway in the soundwall leading to the enclosure."*

**Close Public
Hearing**

Item No. 2

Motion to close the public hearing.

M/S: Williams/Hay

AYES: 7

Motion to approve Use Permit No. 1589, "S" Zone approval and approval of EIA 758 with the amended COA #7 and #15 and with the addition of COA #18, as discussed above.

M/S: Chua/Sandhu

AYES: 7

RECESS

Chair Nitafan called for a recess at 8:45 p.m.

**3. USE PERMIT
NO. 1600:**

*Food concession
stand at Home
Depot, Great Mall
(H.D.X. Inc.)*

Assistant Planner Annelise Judd presented a request to install and operate a food concession stand at the Home Depot at 1177 Great Mall Drive.

In response to Commissioner Hay, Ms. Judd reported that his recollection of a denial of food concession at the previous Home Depot application is correct. The previous application was denied, as the concession stand location was not appropriately placed in the store. Loading zone parking was not previously discussed.

Ms. Judd indicated to Commissioner Williams that the proposed concession location is close to the building and not readily visible to motorists negotiating the ring road. The special condition requires the width of the pedestrian walkway in front of the concession stand to be a minimum of 6 ft. wide, overall around 6-1 ½ ft. to 7 ft. wide between the front of the food stand to the edge of the building. **The applicant, Mark Kelly**, confirmed the ring road is approximately 45 ft. from the building.

Addressing Chair Nitafan's concern regarding competition with the Mall food court, and Commissioners' concerns regarding traffic congestion, the **applicants, Mark Kelly and Mr. Fernando** stated that about 99% of the people served are Home Depot employees, contractors, and homeowners that walk into Home Depot. Two large trash receptacles/garbage cans are placed in the loading zone so there is no parking in that area.

Ms. Judd stated that the City's traffic engineer and transportation planner have reviewed this and support this location, along with the special condition for reconfiguration of the loading zone area in special condition No. 3.

Commissioner Hay stated for the record that he previously voted to deny because he felt the concession would draw too much traffic into an already congested area.

Dave Richerson, stated he is not clear why the applicant would be someone other than the property owner. Why is the property owner now Home Depot? He mentioned he was troubled with the stacks of rebar along the back and felt there shouldn't be a single parking spot with material stacked in it. He felt that a minimum of a 6-month waiting period should be considered before adding anything else and adding more problems.

Ms. Heyden indicated the planning application has an area where the owner has to authorize the application, but it's not uncommon for the applicant to be other than the owner. The applicant is generally the person who is operating the enterprise.

**Close Public
Hearing**
Item No. 3

Motion to close the public hearing.

M/S: Williams/Hay

AYES: 7

Commissioner Hay reiterated his position from the previous denied application from Home Depot, stating that it was his belief then and still is now, that this store is too big for this location and for the parking at this location. He discussed the violations of the Use Permit, which he has seen and said his position remains consistent. Until the parking garage is open and until staff and the Commission can assess the extent to

which that will draw off the demand for parking on that side of the northwestern side of the Mall, he believes the application presented tonight should be denied, without prejudice. The applicant can then come back and reapply.

Commissioner Chua stated she would support this project, as she believes it will reduce the traffic going in and out of

Home Depot. She agreed with Commissioner Lalwani that the purpose of shoppers leaving the store is to find something to eat. If you have a captive audience, you don't want them to go outside the store.

Chair echoed Commissioners Galang and Williams concerns regarding heavy traffic and current, inadequate parking and that he would vote no on the project.

Motion to approve Use Permit No. 1600, subject to 7 special conditions.

M/S: Sandhu/Lalwani

AYES: 3

NOES: 4 (Nitafan, Hay, Galang, Williams)

The motion failed.

Motion to deny without prejudice and to welcome the applicant to return with a proposal after 2 things occur: 1) the new parking garage opens and staff has an opportunity to assess the impact on the parking on the northwestern side of the mall, and 2) the housekeeping issues are resolved to the satisfaction of staff and Planning Commission.

M/S: Hays/Galang

AYES: 4

NOES: 3 (Chua, Sandhu, Lalwani)

IX. OLD BUSINESS

6. Midtown Specific Plan Update

Associate Planner, Marina Rush, presented a verbal update on the time schedule for hearings and public comment and noted votes of approval necessary to adopt the Midtown Specific Plan in the future. Conflict of interest would be taken into consideration relative to Chair Nitafan's and Commissioner Chua's votes.

Commissioner Chua explained that her situation is not a conflict but she would abstain due to the perception of a conflict.

Commissioner Sandhu clarified that although he is a real estate agent, he does not sell property.

Commissioner Hay thanked and commended staff for extraordinary efforts in accomplishing the opportunity for a maximum number of officials both on this Commission as well as the City Council, to participate in this important process. In response to Commissioner Sandhu, Ms. Rush clarified that the BART extension plans would include a BART station in Milpitas.

7.Planned Unit Development No. 78 (Renaissance Hotel)

Chair clarified that the City Council asked the Commission to review the elevation changes of the proposal for the hotel. Associate Planner, Troy Fujimoto, confirmed Commissioner Chua's comments that the purpose of tonight's discussion is to review the roof and exterior of the Renaissance Hotel.

Mr. Fujimoto confirmed that rear and side elevations are not being addressed because there are no changes.

Commissioner Hay reiterated that he is not comfortable with the elevation and that at the time this went to the Commission, he did not make an issue of it. He stated that Council preferred the original design. He stated that the new

elevations are an improvement but believes the original design is best for the City. He reminded the Commission that the applicant also preferred the original design.

In response to Chair Nitafan's request to see the original design, **Applicant Mike Mahoney**, 12859 Spurling Drive, #114, confirmed Commissioner Hay's statement and explained why corporate wanted the change and why the original design is not an option. The original design was not approved by Marriott as they felt it was dated and not progressive enough for what they envisioned a Renaissance Hotel projecting. So they steered the applicant in another direction. The Council was not in favor of the roof element because it did not distinguish the building enough from the Cisco design. Regarding the rejected roof element, Mr. Mahoney said Marriott wanted the image of the hotel to blend in with the neighborhood.

Kit Faubion, Attorney, clarified that members of the Council and Planning Commission had been asked to reach a consensus on the plan revisions. There is nothing to stop the Commission from noting to Council that, given the choice, the Commission's preference is to see the original plan implemented. The Commission can also move on and let Council know their individual thoughts on the plan revisions.

In response to Commissioner Chua's request for the Applicant to point out how the plan revisions items a through e in the staff report were addressed, the Applicant confirmed that items 1-5, listed in the staff report on page 2, under changes incorporated address Council's concerns.

Dave Richerson, stated that he, too, liked the original designs. He stated that the City owns the property and should dictate the design.

Comments to the City Council from Commissioners include:

Commissioner Hay - Perhaps City Council should consider

looking for another developer. Accepts only the original roof design.

Vice Chair Sandhu - Supports original design only.

Commissioner Williams - The elevation is okay, except the roof.

Commissioner Galang and Lalwani - Agreed with Commissioner Williams.

Commissioner Chua - Supports the original design, but not the flat roof, although could live with it.

Chair Nitafan - Concerned that not all elevations were present; supports the original design only.

X. NEW BUSINESS

8.Use

Determination:

*To allow a local
transportation
service facility
(Gurbinder Singh)*

Ms. Heyden introduced Jr. Planner, Stacie Pereira, (former Planning Intern).

Ms. Pereira presented a request for a determination to allow a local transportation service facility (i.e., a taxi service) in an "M2" (Heavy Industrial) district as a permitted use. Staff recommends approval.

Ms. Heyden confirmed to Vice Chair Sandhu that if the Commission approves this use determination, that would allow this use to exist as a permitted use without coming back to the Commission for a conditional use permit. They can go directly to getting a business license and if there are any interior modifications they make to the building, they would have to get the necessary permits, without coming back to the Planning Commission.

Commissioner Chua expressed concern regarding adding another taxicab company in the City and concern with parking.

Motion to allow the taxi service local transportation service facility a permitted use in the M2 District and that this approval is not exclusive to the applicant.

M/S: Lalwani/Sandhu

AYES: 5

NOES: 2 (Chua, Nitafan)

**9. Amendments
To preliminary
plans for
Redevelopment
Project No. 1 and
Great Mall
Redevelopment
Project**

Amendments to preliminary plans for Redevelopment Project No. 1 and the Great Mall Redevelopment Project, related to the addition of two parcels of land to the Great Mall Redevelopment Project area to facilitate the continued location and maintenance of the two highway locational signs for the Great Mall.

Ms. Faubion gave the staff presentation.

In response to Chair Nitafan and Commissioner Williams, Applicant Tim Ryder, consultant to Swerdlow Company, explained that 2-3 other tenants probably would be advertised on the locational signs.

Motion to approve amendments to preliminary plans for Redevelopment Project No. 1 and the Great Mall Redevelopment Project, as the proposed amendments of these project areas are consistent with the General Plan document.

M/S: Hay/Williams

AYES: 7

X. ADJOURNMENT There being no further business, the meeting was adjourned at 11:15 p.m. to the next regular meeting of August 8, 2001.

Respectfully Submitted,

TAMBRI HEYDEN
Secretary

VICKI LINDEMAN
Planning & Neigh. Pres. Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

August 8, 2001

**I. PLEDGE OF
ALLEGIANCE**

Chair Nitafan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL

Present: Nitafan, Sandhu, Chua, Hay, Galang, Williams
Absent: Lalwani
Staff: Faubion, Fujimoto, Heyden, Rush,

**III. PUBLIC
FORUM**

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Mukund Patel, owner of Milan Sweets, 296 S. Abel Street, and Jay Itchaporia, 1019 Cervantes Court, President of Jain Center, 722 South Main Street, requested Commission relief from Milan Sweet' seating requirement. The Use Permit requires Milan to have permanent seating, with a maximum of 36 people. Mr. Itchaporia explained that the majority of Jain members dine at Milan, and it is a problem not being able to sit together. Mr. Itchaporia feels that Milan Sweets will lose

business, if there is nothing that can be done about the seating arrangement. Vice Chair Sandhu commented that it is customary to move tables and seats in an Indian restaurant.

Commissioner Hay asked the representative to contact Planning Staff to discuss the matter further.

Troy Fujimoto, Assistant Planner, provided information that Milan Sweets' Use Permit required fixed seating and a change would require re-review by the Commission.

Attorney Kit Faubion informed that it is not appropriate to discuss this since this will be coming before the Commission in the near future, and the Commission does not have the authority to honor the request at this time.

Chair Nitafan explained to the applicant that he would have to work with staff to speed up the process.

IV. APPROVAL OF MINUTES

July 25, 2001

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of July 25, 2001.

Chair Nitafan corrected the minutes on Page 1 indicating that the reference to Chair Hay should be changed to Chair Nitafan, and asked that staff recheck the tape to determine who seconded the motion to close the public hearing on page 3, since it was not Chair Nitafan.

Motion to approve the minutes of July 25, 2001 as corrected.

M/S: Sandhu/Galang

AYES: 6

ABSENT: (1) Lalwani

V.
ANNOUNCEMENTS

Tambri Heyden, Planning Manager, reported that that the Planning Commission Workshop on August 29th has been changed to the Police Department Community Room.

Ms. Heyden explained that the September 12, 2001 Commission meeting was canceled due to the September 12-15, 2001 League of California Cities Conference. However, staff is requesting the Commission to notify staff of their desire to attend by the end of July. If no Commissioner plans on attending, then the 9/12/01 Commission meeting will be held.

Ms. Heyden also informed that staff has sent out violation letters to the owner and manager of Ulferts on Barber Lane and Crescent Square regarding immediate removal of the A frame signs, and outdoor storage, graffiti, and weed problems. Code enforcement staff will follow up after the end of the compliance period to make sure that compliance has been met.

Additionally, Ms. Heyden followed up on the Commission's concerns about the double row of trees that will be planted behind Home Depot, which will now be delayed to 2004 due to VTA's Park-n-Ride future construction. Ms. Heyden explained that planting was agreed to be delayed, and an amended landscape plan might possibly come before the Commission in the future since the Mall has indicated that there is less room than originally thought to plant all the trees promised.

Commissioner Chua mentioned the upcoming Arts & Wine Summer Festival, August 18-19, 2001, from 10:00 a.m. to 6:00 p.m., sponsored by the Milpitas Chamber of Commerce.

Vice Chair Sandhu mentioned that he attends the CAC (Community Advisory Commission) meetings, and would like another Commissioner to take his place. Commissioner Chua

pointed out that the CAC is voluntary, and Commissioner Hay agreed that there is no need for a representative. Chair Nitafan will inform the CAC that the Commission will not have a representative. Commissioner Chua thanked Sandhu for attending the CAC meetings.

Chair Nitafan presented Commissioner Hay a plaque for 3 years of service as Chair.

Commissioner Hay thanked the Commission.

VI. APPROVAL OF AGENDA

Chair Nitafan called for approval of the agenda.

There were no changes to the agenda. Motion to approve the agenda.

M/S: Williams/Sandhu

AYES: 6 (With the exception of Commissioner Chua abstaining on Agenda Item #6, since she is the applicant).

ABSENT: (1) Lalwani

VII. CONSENT CALENDAR

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Commissioner Galang requested removal of consent Item No. 3 to add special conditions.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

*** 1 USE PERMIT NO. 1603:** A request to operate a retail and service cable store in the Town Center (TC) Zoning District at 537 East Calaveras Boulevard (APN:28-12-019). Applicant: AT&T Broadband, Project Planner: Troy Fujimoto, 586-3287. *(Recommendation: Approval with Conditions)*

*** 4 USE PERMIT NO. 1598** *(Continued from July 25, 2001)* A request to co-locate telecommunication antennas on an existing 100-foot monopole at 200 Serra Way (APN:86-07-032). Applicant MetroPCS. Project Planner: Troy Fujimoto, 586-3287. *(Recommendation: Continue to August 8, 2001)*

Ms. Faubion stated that Commissioner Chua will be abstaining from consent Item No. 6

M/S: Hay/Chua

AYES: 6

ABSENT: (1) Lalwani

Chair Nitafan opened the public hearings for consent item Nos. 1 and 4.

There were no speakers from the audience on either item.

Vice Chair Sandhu clarified that Item No. 4 is a continuance

from the last Commission meeting.

Motion to close public hearing on consent item No. 1, and continue No. 4.

M/S: Hay/Sandhu

AYES: 6

ABSENT: (1) Lalwani

VIII. PUBLIC HEARINGS

2. Use Permit No. 1167.22: "S" Zone Amendment (Outback Steakhouse)

Chair Nitafan opened the public hearing on item No. 2.

Mr. Fujimoto presented a request to operate a 284-seat Outback Steakhouse restaurant at 1246 Great Mall Drive, and recommended approval based on the findings and special conditions in the staff report.

Commissioner Hay expressed concern with the outdoor seating. Mr. Fujimoto replied that the location of the seating would be facing Century Theaters.

In response to Commissioner Chua's comment about garbage collection and service, Mr. Fujimoto responded that it would be screened from view, and collection hours could be limited with a new condition.

Chair Nitafan requested clarification on limitations for alcohol and beer sales. Mr. Fujimoto reiterated that the original Use Permit approved beer and wine. Marina Rush, Associate Planner, informed that the ABC license requirements for beer and wine are different than alcohol. Chair Nitafan responded that a special condition is needed for consumption of alcohol indoors only and asked what the hours of operation were.

Commissioner Chua wanted clarification of how outdoor

seating will be enclosed. Mr. Fujimoto responded that a white picket type fence will enclose the seating area.

Applicant, Bill Fancher with Fancher Development Services, representing Outback Steakhouse, 1342 Bell Avenue, Tustin, California, addressed the Commission's concerns, and explained that deliveries will be unloaded away from the center ring road. Mr. Fancher also stated that hours of operation are typically 4 p.m. to 11 p.m., but wanted extended hours to accommodate late customers at the adjacent Century Theaters. He also stated that his application does call for full-service alcohol, and outdoor seating will be located away from the center ring road.

Commissioner Chua asked whether the outdoor seating faces the plaza fountain. Mr. Fancher stated yes, and that a waiting area will be available to customers, which is the importance of the patio.

Commissioner Galang asked about exit doors, which the applicant indicated they have a system for ensuring waiting customers with an alcoholic beverage are contained within the patio.

In response to Chair Nitafan's questions about extended hours of operation and building design, Mr. Fancher explained the hours of operation, including holidays, would be 10 a.m. to 1 a.m. The building design was not corporate architecture, and was specially designed for this project. Trellis vines would be planted along the walls for decorations.

Commissioner Williams asked if the take-out area will be separate from the lounge. Mr. Fancher answered yes.

In response of Commissioner Chua's dim lighting concerns, Mr. Fancher explained that down lighting will be available along the side and back area, but will be well-lit for security.

Mr. Fancher requested a revision to condition No. 10 on page 6 of 12, to incorporate a scrubber or similar device. He explained the cost for the scrubber plus required monthly maintenance of at least \$100,000. The restaurant would need multiple scrubbers to meet the required conditions. He confirmed that Outback Steakhouses all have an extensive, state-of-the art charcoal filtering system in the kitchens. He requested removal of the word "scrubber" due to the high purchase cost and expensive maintenance that he felt was not warranted.

Chair Nitafan invited the public to address this item.

Fred Reams, 899 Contemplation Place, in the Parc Metropolitan neighborhood, mentioned that theater customers are using the Parc Metro parking, and there is no noise abatement for Dave and Buster's after they close. He also stated that people are screaming and yelling, and playing their radios at 2 a.m.

Keith Knipe, 899 Contemplation Place, works at home, and expressed strong concerns with the traffic and noise problems coming from the Mall traffic from Friday afternoons continuing well into Sunday mornings. Noises include foul, indecent language, horn beeping, car alarms, and drag racers. Mall security appears not to be doing anything about these concerns. He stated he would like the City to take into consideration, the commitments that were made to the Parc Metropolitan residents as well as the people who use the Mall. He believes the area is at maximum congestion.

Ji-Yang Chen, 898 Firewalk, stated that he believes another restaurant will worsen the noise problem.

Kang Shen, 893 Revelation Place, spoke about the disruptive noise and traffic problems occurring at all hours for those living near the Mall which makes it impossible to sleep, impossible to live with, and which almost caused her a breakdown. She would like to have the noises reduced and

have the situation improved for residents. She stated that she is forced to sleep in a very small bedroom in her two-story home, farthest away from the noise. The small bedroom is the only place in the house where they can get any sleep. They cannot leave windows open because of all the noises. She believes the site cannot accommodate a restaurant and feels it will generate more problems.

Motion to close the public hearing.

M/S: Sandhu/Hay

AYES: 6

ABSENT: (1) Lalwani

In response to Commissioner Hay, Mr. Fancher mentioned he provided 656 notices to staff for mailing. He pointed out that if the residents purchased their homes within the past 6 months, they were not reflected on the tax rolls yet which were used to determine the addresses for notices to be sent.

Commissioner Hay mentioned Comet Drive, which runs through Parc-Metro, is an open issue and asked staff to provide a report at the next meeting. Commissioner Hay reported that a task force has been created to address Mall and Home Depot issues. He asked that staff provide a report on this in 30 days.

Responding to Chair Nitafan, Ms. Faubion, provided the opinion that the applicant's statement met the law regarding the noticing process.

Commissioner Williams requested staff to provide a Police Department report that shows substation duties and hours of operations for Mall security. He later distinguished that the problems being raised are the Mall's, and are not associated with a new restaurant.

Commissioner Chua asked if the developer could be requested to inform new residents of potential issues. Attorney Faubion advised that staff could check if there are compliance problems with the conditions.

Chair Nitafan asked for checking of CC&R's compliance as well.

Regarding condition of approval No. 8 regarding lighting, Commissioner Hay requested that the applicant come back to the Planning Commission Subcommittee, not staff.

Responding to Commissioner Chua, Mr. Fujimoto indicated it would be okay to amend the condition of approval to delete the reference to "scrubber" and mentioned the problem staff has with enforcement of this issue. The applicant stated that scrubbers eliminate all odors and are an extreme fix.

Commissioner Chua requested the time in Condition of Approval No. 19 be changed to 6 months.

Chair Nitafan requested a Condition of Approval to limit alcohol consumption to indoors. Commissioners Williams and Chua disagreed based on other restaurants in town. There was consensus among other Commissioners.

Commissioner Hay suggested clarifying the issue by adding "within the premises" to Condition of Approval No. 1.

Chair Nitafan indicated his desire to limit the hours in Condition of Approval No. 15. Commissioner Chua disagreed and there was consensus among the other Commissioners.

Motion to approve "S" Zone and Use Permit No. 1167.22 Amendment subject to the changes on 1, 8, 10, and 19 as amended above.

M/S: Sandhu/Hay

Ms. Heyden discussed changes to standard condition No. 19 that staff made in the report.

Commissioner Chua indicated she would like Condition of Approval No. 19 with the intent that there is a status report to the Commission 6 months from the time they occupy the building. Both the maker of the motion and the seconder agreed to include this in the motion.

Chair Nitafan clarified that the motion is to approve "S" Zone and Use Permit No. 1167.22 Amendment based on the findings and special conditions with the following changes to Special Condition Nos. 10, 8, 19, and 1:

Special Condition No. 1 to include a carbonated filtration system. Special Condition No. 8 to include that landscaping and lighting will need the approval of the Subcommittee. Special Condition No. 19 will read to require re-review by the Commission 6 months after occupancy for waste handling, seating, noise, and odor issues. Special Condition of Approval No. 1 to include consumption of alcohol and beer within the premises.

Chair Nitafan called for the vote in support of the motion
AYES: 6

ABSENT: (1) Lalwani

Commissioner Hay mentioned that all Parc Metropolitan residents should receive sufficient notice in regards to Use Permits at the Great Mall. Commissioner Chua agreed.

Chair Nitafan mentioned that the Commission will review Special Conditions such as task force, police, Great Mall security, and location of restaurant. Ms. Heyden informed that there is a Home Depot task force that meets every Thursday

to discuss solutions to the kinds of problems raised, and agreed to provide a future report.

RECESS

Chair Nitafan called for a recess at 8:45 p.m.

3. Use Permit No. 1602: "S" Zone Approval- Amendment (Pasta Pomodoro)

Chair Nitafan opened the public hearing for Item No. 3.

Ms. Heyden mentioned that she had spoken to Commissioner Galang during the break regarding his issue with the Special Conditions, and based on that, asked whether the Commission wanted to dispense with the staff presentation that recommends approval subject to the findings and special conditions stated in the staff report. Chair Nitafan agreed.

Motion to close the public hearing. M/S: Hay/Williams AYES:
6ABSENT: (1) Lalwani

Chair Nitafan entertained discussion by the Commissioners. Commissioner Galang made a recommendation to add Condition No. 15 from the Outback Steakhouse to Pasta Pomodoro's Use Permit which states that the business owner shall hold training sessions to instruct their employees on the proper procedures in the handling and disposal of food items. Motion to approve Use Permit No. 1167.22, "S" Zone Amendment with the staff report Special Conditions and the additional condition stated above.

M/S: Hay/Williams AYES: 6ABSENT: (1) Lalwani

**IX. OLD
BUSINESS**

*Midtown Specific
Plan Update*

Ms. Rush presented a Housing Tour PowerPoint presentation of downtown San Jose's Urban district, and informed the Commission that the Midtown draft will be ready in two weeks.

X. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:35 p.m. to the next regular meeting of August 22, 2001.

Respectfully Submitted,

TAMBRI HEYDEN
Planning Commission Secretary

VERONICA RODRIGUEZ
Recording Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

August 22, 2001

**I.
PLEDGE OF
ALLEGIANCE**

Chair NitaFan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: NitaFan, Sandhu, Chua, Hay, Galang, Lalwani, Williams

Absent: None

Staff: Burkey, Heyden, Judd, Whitnell

**III.
PUBLIC FORUM**

Chair NitaFan mentioned the introduction of speaker slips that have been initiated for public forum. Members of the audience wishing to speak on an agenda item, will have to pick up and complete a slip from the back table, and hand the slip to Tambri Heyden, Planning Manager and Secretary.

Chair NitaFan also informed the importance of the speaker to state their name and address clearly, so that it can be reflected in the public record and understood by the television audience, and that remarks should be limited to under two minutes.

Chair NitaFan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for

a future meeting

There were no speakers.

**IV.
APPROVAL OF
MINUTES**
August 8, 2001

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of August 8, 2001.

Motion to approve the minutes of August 8, 2001 as submitted.

M/S: Sandhu/Williams

AYES: 6

ABSTENTIONS: (1) Lalwani

**V.
ANNOUNCEMENTS**

Ms. Heyden reported a letter has been sent to the Planning Commissioners informing them of a new benefit – membership at the Milpitas Sportscenter, 1325 E. Calaveras Boulevard. Ms. Heyden stated the Sportscenter has already been provided with the names of the Commissioners, and a name or badge will be required to enter. Ms. Heyden encouraged the Commissioners to attend the newly remodeled facilities.

Ms. Heyden also reminded the Commission of the Planning Commission Workshop to be held at the Police Department Community Room, 1275 North Milpitas Boulevard, Wednesday August 29, 2001 from 6:30 p.m. to 8:30 p.m. Refreshments will be provided, and an agenda will be posted and available, Friday, August 31, 2001. Ms. Heyden mentioned there would be no attachments, so staff plans on e-mailing the agenda to the Commission, and faxing the agenda to those who don't have e-mail.

Commissioner Hay asked if this is a noticed meeting and attendance is required. Ms. Heyden answered affirmatively.

Additionally, Ms. Heyden mentioned to the By-Laws Subcommittee that a 2nd draft of the By-Laws had been distributed with Friday's packets on August 17, 2001. Ms. Heyden proposed a second meeting of September 5, 2001 at City Hall, temporarily located at 1210 Great Mall Drive, at 5:30 p.m. Ms. Heyden requested Chair Nitafan, Commissioner Hay, and Commission Williams confirm their attendance.

Commissioner Lalwani thanked on behalf of the Milpitas Chamber of Commerce, all the volunteers that helped the successful event of the Milpitas Art and Wine Festival, which was held August 18 and 19, 2001. Commissioner Lalwani reported that the number of attendees surpassed last year's numbers, but the total numbers have not been counted. Commissioner Lalwani also mentioned Volunteer Appreciation Night, which will be held on Wednesday, August 29, 2001.

Commissioner Chua echoed Commissioner Lalwani's appreciation for the volunteers, and wanted to specifically thank the entertainers of the main stage. Commissioner Chua mentioned everyone had a great time, and acknowledged the Commissioners who attended.

Commissioner Williams echoed the praise of the Art and Wine Festival and how it was an outstanding event with such a turnout. Commissioner Williams announced the privilege and honor, along with Commissioner Chua, to be participants of the firefighters oral board that took place the week of August 13, 2001 for three days. Commissioner Williams reported there were 160 candidates processed by three panels, many of the candidates coming from Southern California, Northern California, and a couple from out-of-state. Commissioner Williams mentioned the City of Milpitas should be proud of the training, service, and equipment available for the firefighters. The candidates were raving about having gone through a workshop with the type of professionalism and training the City of Milpitas has for its personnel. Commissioner Williams gave credit to Fire Chief, Bill Weisgerber, and Assistant Fire Chief, Bob Dixon for their

outstanding leadership to the organization.

Vice Chair Sandhu, on behalf of the Sikh Foundation, invited everyone to attend Punjab Milpitas Cultural Night on Sunday, August 26, 2001, at the Milpitas Community Center. Vice Chair Sandhu also mentioned that there is a \$5.00 nominal ticket price.

Commissioner Chua also echoed Commissioner Williams, and congratulated the candidates and Fire Chief, Bill Weisgerber, and Assistant member Carmen Valdez projecting such a positive image to the public and congratulated staff as well.

VI. APPROVAL OF AGENDA

Chair Nitafan called for approval of the agenda.

There were no changes to the agenda.

Motion to approve the agenda.

M/S: Sandhu/Hay

AYES: 7

VII. CONSENT CALENDAR

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

There were no speakers from the audience.

Motion to approve consent calendar.

5. "S" ZONE APPROVAL AMENDMENT: A request to change roof material on Wells Fargo Bank at 1715 Landess Avenue (APN: 88-43-031) from wood shake to 40 yr. composition asphalt shingle. Applicant: Acker & Guerrero Roof Co. (on behalf of Wells Fargo Bank). Project Planner: Steve Burkey, 586-3275. (Recommendation: Denial)

M/S: Hay/Chua

AYES: 5

ABSTENTIONS: (2) Nitafan and Chua on Item No. 6 only due to conflict of interest.

VIII. PUBLIC HEARINGS

Chair Nitafan opened the public hearings on consent item Nos. 1, 2, 3, 4, 6, and 7.

*** 1. USE PERMIT NO. 1598:** (Continued from August 8, 2001) A request to co-locate telecommunication antennas on an existing 100-foot monopole at 200 Serra Way (APN: 86-07-032). Applicant: MetroPCS. Project Planner: Troy Fujimoto, 586-3287. *(Recommendation: Continued to September 26, 2001)*

*** 2. USE PERMIT NO. 743-AMENDMENT:** Request to add service of all types of alcoholic beverages at regular guest receptions and manager's receptions for hotel patrons at the Sheraton Hotel, 1801 Barber Lane (APN: 86-3-90). Applicant: RFS Leasing VI, Inc. Project Planner: Annelise Judd, 586-3273. *(Recommendation: Approval with Conditions)*

*** 3. USE PERMIT NO. 1604:** A request to operate a coffee café with 28 seats, at 1197 East Calaveras Boulevard within the Victorian Square shopping center. (APN: 29-13-041). Applicant: Starbucks c/o Dennis Austria. Project Planner: Frank Guido, 586-3284. *(Recommendation: Continued to September 12, 2001)*

*** 4. "S" Zone Approval—Modify Condition of Approval:** A request to modify Condition of Approval No. 19 for the 990,000+ sq. ft. Veritas industrial campus on the west side of North McCarthy Boulevard, opposite Ranch Drive relating to the construction of a right-in/right-out only driveway on North McCarthy Boulevard (APN: 22-56-1, 2, & 3). Applicant: Veritas Software. Project Planner:

Steve Burkey, 586-3275. *(Recommendation: Continued to September 12, 2001)*

*** 6. VARIANCE NO. 508 AND HILLSIDE SITE & ARCHITECTURAL APPROVAL – TIME EXTENSION:** A request for an 18 month time extension for approval of a 5,891 sq. ft. Hillside home and a variance to exceed impervious surface coverage limit at 638 Quince Lane (APN: 29-59-009). Applicant: Philip & Kim Graham. Project Planner: Steve Burkey, 586-3275. *(Recommendation: Approval to the City Council)*

*** 7. "S" ZONE APPROVAL TIME EXTENSION AND "S" ZONE APPROVAL- AMENDMENT:** Request for 18-month time extension for oral care building, including a modification to the building's north elevation and compliance with special condition relating to site fencing. Project location: 27 S. Main Street (APN 22-24-24). Project Planner: Annelise Judd, 586-3273. *(Recommendation: Approval with Conditions)*

After clarification from Chair Nitafan, Commissioner Hay moved that the public hearing be closed on Item 2 only.

There were no speakers from the audience.

Motion to close the public hearing on Item No. 2 only. Item No. 1 will remain open until September 26, 2001 meeting, and Item Nos. 3 and 4 will remain open until the September 12, 2001 meeting.

M/S: Hay/Sandhu

AYES: 7

IX.
NEW BUSINESS
"S" ZONE
APPROVAL
AMENDMENT: Wells
Fargo Bank

Steve Burkey, Associate Planner, presented a request to replace the existing wood shake roofing with composition shingles at Wells Fargo Bank, 1715 Landess Avenue, and noticed staff's recommendation of denial to Wells Fargo Bank because of incompatibility with the adjacent and surrounding roofs in the area, and lack of consistency with the Milpitas Zoning Ordinance and with the Milpitas General Plan.

After a request from Commissioner Williams for an overview of which direction the Parktown Plaza is headed with respect to roof repairs of other buildings, Mr. Burkey reiterated there is no overall design theme for Parktown Plaza. Mr. Burkey mentioned the Planning Commission rescinded Resolution No. 380, and approved plans for a remodeled design of the supermarket and drugstore buildings, which included replacing their old shake roofs with the current metal standing seam roofs. Mr. Burkey also mentioned the Commission approved the new, larger McDonald's to replace the older one on Landess, which has a red metal roof. Mr. Burkey echoed Commissioner William's observations that most of the wood shake roofs are approaching their lifespan and will probably need to be replaced.

Mr. Burkey mentioned two commercial buildings that have approved composition shingles, but that generally this is not accepted in shopping areas or major commercial areas. Most of the new commercial buildings in this center either have tile, or red-barrel shaped tile, that is lightweight or metal tile. Mr. Burkey mentioned that if the Planning Commission was to deny the applicant, then the applicant has the choice of pursuing an alternative route.

Commissioner Williams asked if there was another medical building across the street from Parktown Plaza that had asphalt composite roofing. Mr. Burkey responded that the roof was wood shake.

Commissioner Hay asked if the owners of the buildings of Parktown Plaza have metal roofs. Mr. Burkey responded that they were part of the remodeling – blue metal roofs.

Chair Nitafan asked Mr. Burkey if the Commission could approve roof material other than wood shake. Mr. Burkey responded that the Commission could approve any type of roof. Mr. Burkey also mentioned that staff is recommending denial because of the need for a higher quality roof that would not be different from all the surrounding buildings.

Applicant Gustavo Guerrero, Acker & Guerrero Roof Company, 1092 Calcot Place, Oakland, California, representing Wells Fargo Bank, commented that he understood the Resolution that was rescinded in 1996. Mr. Guerrero reported that the Wells Fargo Bank needs a roof replacement, but feels that composition shingles can do the same job as wood shake and showed samples of both.

Mr. Guerrero compared both roof materials and reported that in order to install wood shake, a Class A fire rating is needed along with a fire barrier. Mr. Guerrero also mentioned that composition shingles already have a Class A fire rating, and would require only underlayment. There would be a \$150 per ten by ten square foot difference between composition shingles and wood shake, and that this is a 40-year roof system, whereas the wood shake roof is a 30-year system, and would have to be retreated after a certain number of years, depending on the manufacturer.

Commissioner Williams asked if Mr. Guerrero had mentioned to the owner of the property alternative types of roofing. Mr. Guerrero stated that the only two that were discussed were composition and wood shake.

Commissioner Hay mentioned his opposition to wood shake because of potential fire damage and treatment mentioned by Mr. Guerrero, but that he would like to move towards uniformity and consistency.

Chair Nitafan also echoed Commissioner Hay's comments and prefers to lean towards lightweight concrete, or metal roofing due to a more aesthetic quality than composition shingles.

After a question by Commissioner Lalwani, Mr. Guerrero stated that Wells Fargo Bank decided on composition shingle because of its brown color, and metal roofs nearby were teal color.

Commissioner Chua commented that the reason for the resolution was to preserve harmonious surroundings, and the roof materials have to be consistent with the City of Milpitas' goals. Commissioner Chua added that this is the reason lightweight tile is preferred.

Motion to deny without prejudice.

M/S: Chua/Sandhu

AYES: 7

Commissioner Hay commented he was expecting a staff Parc Metropolitan report from the August 8, 2001 Commission meeting, to follow up on the neighbors' complaints about the Great Mall. Commissioner Hay thought the report was to be agendized on the August 22, 2001 Commission meeting, and needed clarification.

Chair Nitafan mentioned that staff will agendize the Great Mall update for the September 12, 2001 Planning Commission meeting.

Motion to approve to include Great Mall Update on the September 12, 2001 agenda.

M/S: Hay/Chua

AYES: 7

Commissioner Hay requested that all the neighbors of the Great Mall be notified in writing to comment on the Update and requested attendance by a representative from the Police Department; Great Mall Security and Management.

Commissioner Chua responded that the Homeowner's Association should be contacted as well.

Ms. Heyden mentioned that staff will be prepared for a presentation on the September 12, 2001 Planning Commission. Ms. Heyden noted that the Parc Metro residents who expressed concerns at the August 8th meeting have been contacted by Planning as well as by the Police Department, and staff will be attending their Home Owner's Association meeting.

**X.
ADJOURNMENT**

There being no further business, the meeting was adjourned at 7:45 p.m. to the next regular meeting of September 12, 2001.

Respectfully Submitted,

TAMBRI HEYDEN
Planning Commission
Secretary

VERONICA RODRIGUEZ
Recording Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

August 29, 2001 (Workshop)

**I. PLEDGE OF
ALLEGIANCE**

Chair Nitafan called the meeting to order at 6:30 P.M. and led the Pledge of Allegiance.

II. ROLL CALL

Present: Nitafan, Sandhu, Hay, Galang, Lalwani,
Williams

Absent: Chua

Staff: Burkey, Faubion, Heyden, Rush,

III. PUBLIC FORUM

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers.

IV. ANNOUNCEMENTS

Tambri Heyden, Planning Manager, asked the Commission to let staff know if they needed new name badges.

V. APPROVAL OF AGENDA

Chair Nitafan called for approval of the agenda.
There were no changes to the agenda.
Motion to approve the agenda.

M/S: Nitafan/Sandhu

AYES: 6

ABSENT: (1) Chua

VI. STAFF INTRODUCTIONS AND PURPOSE OF WORKSHOP

Ms. Heyden informed the Commission that the agenda items are for discussion purposes and that no action is required. Staff introductions were given to inform the Commission of staff's professional and educational backgrounds.

Commissioner Hay asked for the names and titles of staff. Ms. Heyden responded that an intern will be hired on Monday, and staff includes two Junior Planners – Staci Pereira and Frank Guido, Assistant Planner, Troy Fujimoto, part-time Assistant Planner, Annelise Judd, and two Associate Planners – Steve Burkey and Marina Rush.

Commissioner Galang asked whether names and phone numbers of staff could be provided. Ms. Heyden responded that staff could provide the information.

Commissioner Lalwani asked if planners require a special degree in Urban Planning or Architecture, or do positions require on the job training. Ms. Heyden responded that

planners may have degrees in related fields, and years of experience count towards job qualifications as well.

**VII. PLANNING
HISTORY AND
THEORY
PRESENTATION-
TAMBRI HEYDEN**

Ms. Heyden gave a presentation on Planning History and Theory, and the development of public intervention into private property issues.

Chair Nitafan asked when the State of California mandated Planning Commissions for cities. Kathleen Faubion, City Attorney, answered that local planning and zoning laws make provisions for a planning agency and planning commission. Mr. Burkey also remarked that cities and counties aren't required to have a Planning Commission. The City Council or Board of Supervisors can be the planning agency, which depends on city council decision.

**VIII. LEGAL
AUTHORITY FOR
PLANNING AND
ZONING AND
POLICE POWER
PRESENTATION-
KATHLEEN FAUBION**

Ms. Faubion gave a presentation on legal authority for planning and zoning, and police power.

**IX. LOCAL PLANNING
– GENERAL PLAN,
ZONING ORDINANCE
AND SPECIFIC PLANS
- PRESENTATION**

Mr. Burkey gave a presentation on local planning, the general plan, the zoning ordinance and specific plans.

**X.
QUESTION/ANSWER
SESSION
REGARDING ITEMS**

Chair Nitafan reminded the Commission to fill out their comments on the feedback forms provided for future improvements to workshops.

Commissioner Lalwani asked how long is the Commission supposed to keep records for a continued or unapproved project. Mr. Burkey remarked that staff usually keeps files and records, but that Commission should keep ordinances and plans. Ms. Faubion recommended keeping agendas for several years.

Commissioner Williams asked what's the difference between a general law and a charter city. Ms. Faubion responded that general law and charter cities have different ways of doing the same thing. The city adopts a charter by establishing its own rules of how to do things, and the rules are not subject to the general laws of the State of California.

Ms. Faubion also mentioned that in some cases, the State of California will mandate that state laws should apply to charter cities. Basically, charters provide more local control, and larger cities often are charter cities.

Vice Chair Sandhu asked if a property has conditions of approval and is sold, will the use permit still be valid. Mr. Burkey remarked that use permits run with the particular property.

Based on a question raised by Vice Chair Sandhu, Mr. Burkey also reported that private schools are regulated by the city, and the county regulates public schools.

Chair Nitafan asked if charter cities are politically motivated. Ms. Faubion responded that one might view a charter city to have more local control than being regulated by the State. Ms. Faubion also mentioned to the extent that people have those points of view, it can be motivated politically. Basically, charter cities have a long process and are established by vote of the citizens.

Commissioner Hay mentioned local control could have both pluses and minuses. For example on one side, charters don't have restrictions from the state. Commissioner Hay commented that a charter could be more restricted because they have to go back to the people to change the charter. Charters could be more restrictive than if you were under state law. Basically restricted laws from the state protect the citizens, and if you change to a charter city, you don't have the protection from the state.

Ms. Faubion reported a charter is like a constitution where it covers a long range of issues. The community has to decide on how they feel about the issues. Ms. Faubion also mentioned that the Commission would have to decide on land use, and it could be issues for a charter consideration.

Commissioner Galang wanted to know the impact on planning if the City became a charter city. Ms. Faubion reiterated that it would depend on how a charter is approved and created.

Commissioner Galang also asked if there are any charter cities that have planning problems because of it. Ms. Faubion did not know the answer.

RECESS

Chair Nitafan called for a recess at 8:45 p.m.

XI. MIDTOWN PLAN OVERVIEW

Marina Rush, Associate Planner, gave a presentation on the proposed Midtown Specific Plan.

Commissioner Hay asked if there would be a Planning Commission hearing on the EIR (Environmental Impact Report) for Midtown. Ms. Rush commented that the EIR report is together with the Midtown Plan. Ms. Rush also stated there will be a special Planning Commission Workshop on the EIR.

XII. WRAP-UP FEEDBACK

Chair Nitafan asked the Commission if they had further comments.

Commissioner Hay asked the difference between with and without prejudice decisions and requested a written report from the City Attorney to explain the difference.

Commissioner Lalwani commented that she would like to see a CEQA (California Environmental Quality Act) and Urban Design procedures for applicants as topics for future workshops.

Chair Nitafan suggested having workshops once a year due to conferences. Commissioner Hay mentioned that not all Planning Commissioners attend the conferences so more frequent workshops might be better. Vice Chair Sandhu suggested having workshops on weekends.

Commissioner Lalwani requested a flow chart be added to the City's website showing the application procedure for applicants.

After Vice Chair Sandhu asked whether the City has a set of written protocols, Commissioner Hay commented that the City doesn't have one, but anybody could request the Council to prepare one.

**XIII.
ADJOURNMENT**

There being no further business, the meeting was adjourned at 9:00 p.m. to the next regular meeting of September 12, 2001.

Respectfully Submitted,

TAMBRI HEYDEN
Planning Commission
Secretary

VERONICA RODRIGUEZ
Recording Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

September 12, 2001

- I.** Chair Nitafan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**PLEDGE OF
ALLEGIANCE**

- II.** Present: Nitafan, Sandhu, Chua, Hay, Galang, Lalwani, Williams

ROLL CALL

Absent: None

Staff: Burkey, Guido, Faubion, Fujimoto, Heyden, _

- III.** Chair Nitafan mentioned speaker slips that have been initiated for public forum. Members of the audience wishing to speak on an agenda item, will have to pick up and complete a slip from the back table, and hand the slip to Tambri Heyden, Planning Manager. Speakers should limit their topic to no less than two minutes.

PUBLIC FORUM

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, mentioned that the Brown Act forbids people that want to speak to have to sign in. Kit Faubion, City Attorney, clarified that speakers are not required to sign in as a condition of speaking. The purpose of signing in is to assist in preparing the minutes and the public record.

Mr. Richerson mentioned that next Tuesday's City Council item regarding flag poles and pond work at the new City Hall will mark the 2nd year anniversary of the People's Republic of China flag raising ceremony. He feels that this topic should not be on the agenda, and hopes the Planning Commission will be there to voice their opinions as well.

IV.

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of August 22, 2001 and August 29, 2001.

**APPROVAL OF
MINUTES**

*August 22, 2001 and
August 29, 2001*

Motion to approve the minutes of August 22, 2001 and August 29, 2001 as submitted.

M/S: Sandhu/Galang

AYES: 7

V.

ANNOUNCEMENTS

Tambri Heyden, Planning Manager, reported on the Home Depot food concession use permit that was previously denied by the Planning Commission and informed that the applicant has applied for an appeal of the decision to City Council. Given the nature of the Planning Commission comments, Ms. Heyden has worked with the applicant to continue the applicant's appeal to the October 16, 2001 council meeting. The reason for continuance is because of the Home Depot/Great Mall task force efforts towards addressing the concerns raised by the Commission.

Commissioner Galang mentioned that his thoughts and prayers are with the families and friends of the terrorist victims. The public can help by making a donation and calling, 1-888-393-4488.

Commissioner Hay reported on the August 27, 2001 Transportation Sub Committee meeting regarding the traffic signal backup project in the City of Milpitas. Battery backups have been installed with the exception of Montague Expressway, which is county-owned. If the City loses power, signals should be controlled for a two-hour period. After that, the lights will blink red for five more hours.

Commissioner Hay also mentioned that staff is currently preparing a holiday traffic plan for shopping areas in Milpitas to reduce potential congestion between October 1, 2001 through February 1, 2002. Areas of concern are the Great Mall, the McCarthy Ranch Marketplace and the Milpitas Square. The plan will include coordination of projects, validation parking, provision of off-site employee parking and shuttle service, and additional signage for motorists.

Commissioner Hay informed that October 2, 2001, is International Walk a Child to School Day, which is being conducted by the City and the Milpitas Unified School District. The Planning Commission will be receiving invitations in the mail. The purpose of the campaign is to help identify where there may be safety problems.

Commissioner Hay also mentioned that the I-680/880 cross connector is still being discussed due to serious concerns and on September 20, 2001, there will be a groundbreaking ceremony for the 880/Dixon Landing Road intersection. Chair Nitafan asked if there is a deadline for the 680/880 cross connector report. Commissioner Hay answered, "No", due to the many options being considered.

Chair Nitafan asked if the Bart System San Jose project is being discussed. Commissioner Hay responded that it is tentatively planned for the VTA staff to present recommendations to the VTA Board the 1st week in November. Chair Nitafan asked if the meetings are open to the public and Commissioner Hay did not know the answer. Commissioner Hay asked if staff could present a report to the Planning Commission on the Bart Project due on October 24, 2001.

Commissioner Hay requested that tonight's adjournment be dedicated in honor of the victims and their families.

Chair Nitafan reported that at last Wednesday's Community Advisory Commission meeting, it was announced that there is no liaison from the Planning Commission. Chair Nitafan asked staff to include the Community Advisory Commissioners on the distribution to receive Planning Commission agendas. Ms. Heyden answered that staff had just updated its distribution list.

VI.

Chair Nitafan called for approval of the agenda.

**APPROVAL OF
AGENDA**

There were no changes to the agenda.

Motion to approve the agenda.

M/S: Sandhu/Lalwani

AYES: 7

VII.

**CONSENT
CALENDAR**

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

There were no speakers from the audience.

Vice Chair Sandhu requested to add Item No. 1 to the consent calendar.

Commissioner Williams wanted to know if the item would be coming back to the Commission at a future time. Ms. Heyden responded that this item would not, but that there might be a future request for a subdivision of the Veritas property.

Commissioner Chua asked if the approval in part recommendation from staff is acceptable with the applicant. Mr. Burkey responded that the applicant is in agreement with all changes proposed by staff.

Motion to add Item No. 1 to the consent calendar.

*** 1. "S" ZONE AMENDMENT:** (Continued from August 22, 2001) A request to modify Conditions of Approval Nos. 18 & 19 for the 990,000+ sq. ft. Veritas industrial campus on the west side of North McCarthy Boulevard, opposite Ranch Drive relating to timing of public improvements on North McCarthy Boulevard. Applicant: Veritas Software. Project Planner: Steve Burkey, 586-3275.
(Recommendation: Approval in part)

*** 2 USE PERMIT NO. 1255 AMENDMENT:** A request to amend the Special Conditions from the prior Use Permit Approval for the Milan Sweets Center Restaurant, 296 South Abel Street (APN: 086-08-035), to delete the condition of fixed seating. Applicant: Mukund Patel. Project Planner: Troy Fujimoto, 408-586- 3287.
(Recommendation: Approval with Conditions)

M/S: Sandhu/Williams

AYES: 7

Chair Nitafan opened the public hearings for consent item Nos. 1 and 2.

There were no speakers from the audience on either item.

Motion to close public hearing on consent item Nos. 1 and 2 and approve consent calendar.

M/S: Hay/Chua

AYES: 7

VIII.

Chair Nitafan opened the public hearing on Item No. 3.

PUBLIC HEARINGS

3. Use Permit No. 1604: *(Starbucks)*

Frank Guido, Junior Planner, presented a request to operate a Starbucks coffee café with 28 seats at 1197 East Calaveras Boulevard within the Victorian Square Shopping Center, and recommended approval based on the findings and special conditions in the staff report. Mr. Guido drew the Commissioners' attention to the six e-mails voicing opposition of Starbucks, and handed out to all the Commissioners to read.

In response to Commissioner Lalwani, Mr. Guido stated that the Planning Commission is not required to make findings based on the proximity of other similar uses, ownership, identity, or number of similar establishments.

Chair Nitafan invited the public to address this item.

Applicant, Marcelline Mahern, 455 North Point, 2nd Floor, San Jose, mentioned that Starbucks will be occupying 1500 square feet, and plans on spending in excess of \$350,000. Starbucks' goals are to serve the residents on the east side of Milpitas, and not to target small businesses. Ms. Mahern stated that Starbucks serves as good tenants, and generates a lot of business for neighboring businesses. Business peak hours are between 6:00 a.m. to 9:00 a.m., which should not impact traffic.

Kristine Hung, Marketing Manager, 455 North Point, 2nd Floor, San Jose, explained that Starbucks mission statement is to strengthen relationships with the community by contributing positively. Starbucks spends \$4 million annually on programs such as AIDS, literacy, arts and culture, Tri-city breakfast program, bus passes, housing, and shelters.

Starbucks also donates pastries and coffee beans to the School of the Deaf.

John Kirkorian, Kirkorian Enterprises, 1630 West Campbell Avenue, Campbell, owns a business at the Victorian shopping center, and is very excited about having Starbucks in the neighborhood, because it will bring more business to the existing location. Mr. Kirkorian mentioned that he doesn't understand why independent coffee shops are labeling Starbucks as bad corporate citizens since Starbucks supports the community, helps local high school students, food drives and local events.

In response to Commissioner Lalwani's questions, Mr. Kirkorian reiterated that the bookstore coffee shop, formerly Java Gardens, is no longer at the site because it went out of business, and Starbucks will be occupying the former Weight Watchers location.

Dave Richerson stated that the drawings are acceptable unless the contractors do not build it as per the plan.

Mark Thomas, 195 Walter Hays Drive, Palo Alto, leasing agent for Victorian Square shopping center, mentioned that he has no intention to damage other businesses such as the local donut shop. He understands there is nervousness where small businesses feel they have to compete, but Mr. Thomas believes the donut shop will benefit from Starbucks.

Peter Eshiett, owner of Caffé Romeo, 1307 Jacklin Road, spoke about ethics and integrity, and believes that everyone can see through to what has been said. Mr. Eshiett mentioned that the Planning Commission doesn't understand how many Starbucks we can have in such a small community, and how it can hurt local businesses such as a small coffee shop that is family owned. He also mentioned how it is impossible to bring in Starbucks and believe the small coffee shop will survive.

Ann Zeise, representing Gomilpitas.com, 1949 Grand Teton, Milpitas, spoke about the demographics, such as living on the east side of Milpitas, being a coffee drinker, and a frequent shopper at McWhorters. She believes that Milpitas does not need another coffee shop in the area, but a restaurant would be more useful. Ms. Zeise would like the Planning Commission to come up with something more creative, for example a dress shop.

Motion to close the public hearing on Item No. 3.

M/S: Hay/Chua

AYES: 7

Commissioner Hay mentioned that he understands how small businesses can be challenged by competitors, but the role of the Planning Commission is to make decisions for land use within the parameters of General Plans and other ordinances. It is not the Planning Commission's responsibility to limit competition, but that it should be addressed between the owner of the shopping center and the tenants. Commissioner Hay believes that Starbucks will generate more business in the area, and the market place will determine if the donut shop will be successful or not.

Commissioner Chua and Commissioner Lalwani both echoed Commissioner Hay's comments and support Starbucks.

Commissioner Lalwani asked about an additive found in Starbucks' tazo tea. Ms. Hung responded that there is a lawsuit pending, but tests indicate that no additive has been found in tazo tea.

Commissioner Galang asked if Starbucks sells donuts. Ms. Mahern answered that there is a 5:00 a.m. delivery of croissants, scones, muffins, and a variety of pastries, but it should not affect the donut shop, or Caffé Romeo, which is about a mile away.

Motion to approve Use Permit 1604 based on the findings and subject to the special conditions as stated.

M/S: Hay/Lalwani

AYES: 7

IX.

OLD BUSINESS

4. Home Depot/Great Mall Report

Ms. Heyden presented a report requested by the Planning Commission regarding the closure of Comet Drive, the accomplishments of the City's Home Depot/Great Mall task force, duties and hours of operation of the Police Department's Mall substation and of Mall security, and the status of the Parc Metropolitan project's conditions of approval.

Jim Berg, Commander of the Patrol Division within the Police Department, presented a report of the Milpitas Police Department's response to concerns and complaints originating from residents of Parc Metropolitan.

Commissioner Williams asked how Mall Security is involved relative to noise issues, and what commitment has the Police Department made in case an altercation occurs.

Mr. Berg responded that he meets on a regular basis with Mike Short, Chief of Mall Security, and their main goal is to have a very close and effective relationship. Both the roles of the Police and Mall Security complement enforcement issues. The Mall Security has been trained on dispatched procedures, and their responsibility is to patrol the outside area, and call the police quickly if they cannot handle a situation.

Commissioner Galang asked how many police patrol the mall after 9:00 p.m. and if the Police have an office at the mall.

Mr. Berg responded that more than one officer is assigned to the mall at all hours of the day. The Mall is adequately staffed with the police and security. Mr. Berg mentioned that there are two offices in the Mall. One is a storefront area where citizens can seek information and get a report. The other is a substation down the hall near the parking lot, which is more of an operational area where a person can be interviewed and processed.

Commissioner Chua wanted to thank the Home Depot/Great Mall task force for taking residents' feelings from Parc Metropolitan seriously. Mr. Berg mentioned that the Police establish a positive relationship with new homeowners by giving them information of services they may have not been aware of.

Commissioner Chua wanted clarification if there is a task force representative from Parc Metropolitan and the Homeowners Association, and suggested that either be included. Ms. Heyden mentioned that the task force is solely a city staff task force consisting of internal departments such as Police, Engineering, and Planning.

Commissioner Hay wanted to congratulate staff on the formation of the task force for taking the aggressive step of meeting with Police, Home Depot, and Parc Metropolitan.

In response to Commissioner Lalwani's question regarding whether the homeowners were satisfied about the progress being made from the task force, Ms. Heyden responded that she could only speak with regards to one of the residents she contacted who was concerned about the new Outback Steakhouse restaurant proposed. The resident remarked that she had already seen improvements in regards to noise.

Ms. Heyden also mentioned that the task force would be researching other conditions of approval issues raised at the Homeowners Association meeting staff attended.

Commissioner Williams wanted to commend staff on their excellent report, planning and coordination. He went on to say that he is concerned with Home Depot's forklifts and trucks making noise, and pallets that are stacked high, which can be a fire hazard. Home Depot doesn't have room to place trees, but has items placed along the driveway.

Commissioner Williams requested that staff provide frequent reports of progress being made so those residents don't complain in future meetings.

In response to Commissioner Williams, Ms. Heyden mentioned that the issues from Home Depot's pallets stem from the problem of their private collector not picking them up frequently enough. The task force has been working with Home Depot on the matter by issuing a letter requiring mandatory collection services by the City.

Regarding noise, Ms. Heyden remarked that Home Depot is considering two alternatives presented by staff and is working with them to figure out how to incorporate noise attenuation into a screen wall.

Commissioner Hay echoed Commissioner Williams, and mentioned that the Planning Commission has always had consistent problems and enforcement issues with Home Depot. He requests that staff stay aggressive, considering Home Depot's history and would like to see an informal report every two months on progress being made.

Ms. Heyden answered that the next progress report can be made in late November.

Bill Weisgerber, Fire Chief, echoed the remarks of Commissioner Williams and Commissioner Hay, and communicated that the Home Depot/Great Mall task force is very diligent about every aspect of Home Depot's approval conditions, and everyone from the various departments are attending the meetings.

Chair Nitafan mentioned that the reason we have code enforcement is for citizens to report formal complaints. It is the role of the Planning Commission to approve a project based on the merits and findings. Once a project is approved, the Planning Commission turns it over to staff to see that construction and conditions of approval are complete. Staff has the responsibility of the code enforcement function, and to verify compliance.

Chair Nitafan recognized Dave Richerson who asked to address the Commission on this item.

Mr. Richerson presented a video, which showed Home Depot's parking lots filled with shopping carts, stacks of lumber, sheet rock, roofing material, and pallets. In the back of the parking lot, the video showed more material and shelving equipment. Mr. Richerson states that Home Depot should be shut down until they meet the conditions of approval.

X.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:00 p.m. to the next regular meeting of September 26, 2001.

Respectfully Submitted,

TAMBRI HEYDEN
Planning Commission
Secretary

VERONICA RODRIGUEZ
Recording Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

September 26, 2001

**I. PLEDGE OF
ALLEGIANCE**

Chair Nitafan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL

Present: Nitafan, Sandhu, Chua, Hay, Galang,
Lalwani, Williams

Absent: None

Staff: Faubion, Fujimoto, Heyden, Judd, Pereira

III. PUBLIC FORUM

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers.

IV. APPROVAL OF

MINUTES *September 12, 2001*

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of September 12, 2001.

Vice Chair Sandhu corrected the minutes on Page 3 indicating that Item No. 2 should reflect a 7-0 vote of approval.

Dave Richerson, 1920 Yosemite Drive, commented that his comments on Page 4 should read that the drawings are acceptable unless the contractor does not build as per the plan.

Motion to approve the minutes of September 12, 2001 as corrected.

M/S: Lalwani/Sandhu

AYES: 7

-

V. ANNOUNCEMENTS

In response to Commissioner Galang's question from the August 29, 2001 Planning Commission Workshop, **Tambri Heyden, Planning Manager**, reported that when a new agenda is prepared, the previous agenda is replaced on the City's web-site._

-

Ms. Heyden informed that the next rotation of the Planning Commission Subcommittee begins October 10, 2001. The members will consist of Commissioner Galang and Chair Nitafan, and Commissioner Hay will become an alternate.

Ms. Heyden mentioned that staff reports now include digital photographs of sites that should be helpful to the Planning Commissioners who aren't able to visit the site.

Ms. Heyden also reported that there is a time conflict with the October 10, 2001 Planning Commission meeting due to the Remembrance Ceremony at the Sports Center honoring those who lost their lives in the September 11, 2001 terrorist tragedy. Staff has polled the Commissioners and there could be a quorum for a 5:30 p.m. meeting. Although the agenda at this point for the October 10, 2001 meeting includes two items which are time-sensitive, if the meeting were to start at 5:30 p.m., the meeting could be concluded by 7:00 p.m. for those Planning Commissioners who wanted to attend the ceremony.

In response to Commissioner Galang's question, Ms. Heyden responded that the Subcommittee meeting would begin at 5:00 p.m. Commissioner Galang asked if the Subcommittee meeting could be rescheduled and **Commissioner Lalwani** and **Commissioner Chua** responded that to avoid that, they would be willing to take his place on the Subcommittee.

Following discussion, Chair Nitafan suggested that since there would be a quorum for a 5:30 p.m. meeting, the Planning Commissioners could make a motion to approve the 5:30 p.m. time.

Commissioner Chua mentioned that this is the announcement part of the meeting, and the item should be agendaized given the discussion. **Kit Faubion, City Attorney** commented that the item could be added to the end of the agenda, and that the revised meeting time should be indicated so that the audience and listeners are aware of the corrected notice.

Commissioner Chua requested to add the October 10, 2001 issue as the last agenda item under New Business.

There was consensus among the Commissioners.

VI. APPROVAL OF AGENDA

Chair Nitafan called for approval of the agenda.

Motion to approve the agenda with an amendment to add discussion of the October 10, 2001 meeting start time under New Business.

M/S: Sandhu/Galang

AYES: 7

VII. CONSENT CALENDAR

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

***3 USE PERMIT NO. 1598:** (Continued from August 22, 2001) A request to co-locate telecommunication antennas on an existing 100-foot monopole at 200 Serra Way (APN: 86-07-032). Applicant: MetroPCS. Project Planner: Troy Fujimoto, 586-3287. (Recommendation: Continue to October 24, 2001)

***4 USE PERMIT NO. 1610:** A request to temporarily locate six office trailers for the use of a temporary residence for overnight security and employees and storage at 321 Cypress Drive (APN: 86-04-007). Applicant: Medearis Construction. Project Planner: Troy Fujimoto, 586-3287. (Recommendation: Approval with Conditions)

***6** Adopt revised resolution approving specified amendments to Preliminary Plans for Redevelopment Project No. 1 and the Great Mall Redevelopment Project and recommending adoption by the City Council of said plan amendments all related to the addition of two parcels of land to the Great Mall Redevelopment Project Area to facilitate the continued location and maintenance of the two highway locational signs for the Great Mall.

Commissioner Chua requested to put Item No. 5 on consent but asked staff if the applicant is in agreement with the approvals of condition. **Staci Pereira, Junior Planner**, mentioned that the applicant has agreed with the conditions.

***5 USE PERMIT NO. 1612 (REISSUANCE OF USE PERMIT NO. 1464):** A request to allow a temporary vendor to sell custom wood signs at the Wal-Mart located at 301 Ranch Drive (APN: 022-29-016). Applicant: Mike Stephany, California Redwood Signs. Project Planner: Staci Pereira, 586-3278. (Recommendation: Continue to October 24, 2001)

Motion to add Item No. 5 to the consent calendar.

M/S: Chua/Lalwani

AYES: 7

Chair Nitafan opened the public hearings for consent item Nos. 3, 4, and 5.

There were no speakers from the audience on the items.

Motion to close public hearing on consent Item Nos. 3, 4, and 5.

Commissioner Hay asked for clarification as to whether Item No. 5 would remain open for public hearing.

Commissioner Chua amended her motion to continue Item No. 5 to October 24, 2001.

Motion to close the public hearing on consent Item Nos. 4 and 5 only. Item No. 3 will remain open until the October 24, 2001 meeting.

M/S: Chua/Sandhu

AYES: 7

VIII. PUBLIC HEARINGS

Chair Nitafan opened the public hearing on Item No. 3.

1. USE PERMIT NO. 680.27-AMENDMENT: *(A Touch of Aloha Family Restaurant)*

Annelise Judd, Assistant Planner, presented a request to expand from beer and wine service to sales of all types of alcoholic beverages, and add an interior portable stage for live entertainment at 148 N. Milpitas Boulevard, and recommended approval based on the findings and special conditions in the staff report.

In response to Commissioner Hay's question, Ms. Judd responded that the library was approximately 300 feet from the Aloha Family Restaurant.

Vice Chair Sandhu inquired about the difference between live entertainment and a nightclub, and the difference in hours. Ms. Judd responded that there is no bar or cocktail lounge, and the conditions of approval regarding hours limit operations to 9:00 p.m. Staff additionally recommends 5:00 p.m. to 8:00 p.m. for alcoholic beverage service.

Commissioner Chua asked how long the restaurant has been in existence. Ms. Judd responded since 1990, and that it used to be a restaurant called the Velvet Creamery. Commissioner Chua also questioned if the owners have an ABC (Alcohol Beverage Control Board) license. Ms. Judd answered “yes” and that the owners currently have a beer and wine license only, and would like to expand it to all types of alcohol.

In response to **Commissioner Galang’s** question, Ms. Judd commented that the previous owners from the Velvet Creamery did not serve alcoholic beverages.

Chair Nitafan questioned why COA #7 states 100 seats and not the 86 mentioned in the staff report. Ms. Judd explained the impact on seating when the portable stage is removed. Chair Nitafan commented that COA #7 should reflect 86 seats when the stage is in place so that the public is aware and Ms. Judd agreed.

Applicant, Richard Nashiro, owner of Aloha Family Restaurant, 148 N. Milpitas Blvd., explained that the food service station, which took up 64 square feet of space, was removed to add a portable stage, so the floor seating capacity should remain the same.

Ms. Judd explained that the applicant should revise the floor plan to reflect his comments, because the floor plan shows the 86 seats plus the stage, not 100 seats. According to the City’s Building Inspector, the existing arrangement does accommodate 100 seats.

Kit Faubion, City Attorney, suggested that the floor plans be delineated on the plans, to show a dashed outline of the previous location of the food service station.

In response to Commissioner Hay, Mr. Nashiro responded that Aloha’s entertainment consists of Hawaiian hula dancers and karaoke.

Commissioner Galang echoed Commissioner Hay's comments and inquired about the sound level of the music. Mr. Nashiro responded that the music level is very soft and can't be heard outside of the restaurant.

Commissioner Galang also referred to COA #6, which reads "no dance floor", and wondered whether this was going to be a problem to dance. Mr. Nashiro responded that no dance floor is needed to dance the hula.

Commissioner Chua asked if the restaurant plays music all day long. The applicant said "yes". Commissioner Chua attested that she attends Chamber of Commerce meetings nearby and has never heard the music outside of the restaurant.

Commissioner Lalwani asked about the ratio of lunch to dinner customers. Mr. Nashiro responded that they have more lunch customers.

Commissioner Hay inquired about beer and wine sales and Mr. Nashiro responded that beverages are sold between 11:30 a.m. to 8:00 p.m., Sunday through Thursday. Friday and Saturday, beverages are sold until 9:00 p.m.

Commissioner Hay asked about staff's recommendation of 5:00 to 8:00 p.m. as an alcohol sales limit. Mr. Nashiro responded that this would be a problem.

Chair Nitafan questioned whether alcohol would be served outdoors. Mr. Nashiro responded that the outdoor seating is used as a waiting area only. There are no tables, only on special occasions.

Ms. Judd suggested a new condition be included about alcohol being served to those outside, and limiting sales of beer and wine to lunch and dinner customers, and alcohol from 5:00 p.m. to 8:00 p.m. The applicant noted that he has a problem with this new condition.

Chair Nitafan invited members of the audience to address this Item.

Colleen Hariuchi, 398 Sandhurst Drive, (Beresford Townhomes), mentioned a petition that was submitted objecting to alcohol sales.

Jeffrey Rong, 364 Sandhurst Drive, objected to background and entertainment noise. He currently hears noise on some late nights from the restaurant. Mr. Rong confirmed this was not from a party in the restaurant but from the restaurant staff.

Chair Nitafan asked about the distance between Mr. Rong's house and the restaurant. Mr. Rong responded "70 feet".

David Houck, 274 Oakhurst Way, mentioned that Hawaiian music includes drums, which is a noise that travels a distance, but historically, Aloha Restaurant is a good neighbor.

Frank (last name not discernable), 359 Bayberry Way, echoed Colleen Hariuchi's comments and added that speeding is another issue, and currently has a petition with 44 signatures.

Peter (last name and address not discernable), mentioned that Aloha Restaurant is changing the environment of the housing development and of the library.

Mr. Nashiro responded that law enforcement responds to speeders and that other area restaurants serve alcohol.

Mr. Houck suggested the applicant move to a tenant space that is vacant in the shopping center.

Close Public Hearing
Item No. 1

Motion to close the public hearing.

M/S: Hay/Sandhu

AYES: 7

Commissioner Hay asked if the karaoke equipment would be moved away from the door. The applicant indicated that it would be moved behind the buffet table.

Commissioner Williams inquired about the hours of serving alcoholic beverages, and questioned ABC approval. Ms. Judd responded that ABC would enforce the City's Conditions of Approval regarding hours.

Chair Nitafan suggested deleting COA #7, and Ms. Judd recommended that it stay, due to the issue being a problem over the years. Chair Nitafan agreed.

Ms. Judd suggested revising COA # 7 to read:

"The maximum seating for this restaurant is 100 indoor seats and 12 outdoor seats. Prior to commencement of the live entertainment use and sales of all types of alcoholic beverages, the applicant shall complete the following: (1) submit to the Planning Division staff a revised floor/seating plan which accurately shows the layout of the 100 indoor seats and the stage area, plus shows in dashed outline the previous location of the server station; and (2) a sign measuring at least 1-foot by 1-foot, with a lettering height of at least 3 inches, shall be placed in a conspicuous location near the restaurant front entrance stating "Maximum dining room seating 100."

Commissioner Chua mentioned that she has a problem with micro-managing alcoholic beverage service and that she wouldn't want a condition of approval for this.

Commissioner Hay commented that he understands neighbors concerns, but also knows the Aloha Restaurant has been a good neighbor. He is concerned about non-Hawaiian entertainment, which could become loud.

Kit Faubion responded that COA #3 could be reflected to define "live entertainment".

Commissioner Hay suggested a 6-month review to see if noise would be a problem that would come back to the Planning Commission.

After a question by Commissioner Lalwani, Ms. Judd clarified that it is unusual to limit alcohol to different hours for beer and wine sales. Commissioner Lalwani responded that it is difficult to enforce.

Motion to approve Use Permit No. 680.27 Amendment, with the amended COA #7 stated above.

M/S: Hay/Lalwani

AYES: 7

After the vote, Commissioner Chua commented that the applicant should open communication with Beresford Village Homeowners Association and the applicant agreed.

**2. USE PERMIT NO.
1608: (Environmental
Management Systems)**

Annelise Judd, Assistant Planner, presented a request to operate a recycle center in the heavy industrial district, at 945 Ames Avenue, and recommended approval based on the findings and special conditions in the staff report. Ms. Judd noted a letter of objection received from Holland Hitch Company.

Chair Nitafan suggested COA #13 be revised to read the following:

“Prior to occupancy permit issuance, the applicant shall provide the City’s Planning Division with documentation ensuring that the hazardous material clean up (the staining at the waste storage area) has been accomplished”.

Applicant Brian Bumb, Environmental Management Systems, 1590 Berryessa Road, wanted to know whether he needed to landscape along the entire frontage. Ms. Judd responded that according to the condition of approval, he does.

Vice Chair Sandhu explained how bins are rented by contractors and picked up and sorted at the proposed facility, and how some bins come from households under construction.

Commissioner Hay asked about Environmental Management Systems' experience with hazardous materials and the applicant explained how the business has grown over the years.

Commissioner Galang suggested employees wear safety glasses and the applicant explained that the employees already do.

Commissioner Chua asked about the location of the nearest competitors and the applicant responded "Sanchez Road".

In response to Commissioner Nitafan's question, Mr. Bumb responded that an amendment would be necessary for more than just sorting. The applicant explained the process of where recycled materials go and that there will be no piles on site.

Chua questioned who Nan Vaughn was and the applicant replied that she is their consultant.

Chair Nitafan invited members of the audience to address this Item.

Jerry England, 901 Ames Avenue, employee of Holland Hitch Company, expressed his concern about debris and garbage being unsightly, and the problem with wind scattering materials to adjacent properties. Mr. England believes this will decrease their ability to sell their property, which is up for sale and questions the number of bins and screening as being adequate.

Close Public Hearing
Item No. 2

Motion to close public hearing.

M/S: Hay/Chua

AYES: 7

Regarding the unsightliness of bin sorting, the applicant responded that he could move the sorting to inside the building.

In response to Vice Chair Sandhu's question, the applicant responded that there are no rotting or fermenting odors.

Commissioner Chua suggested COA #18 be added to read the following:

"The Planning Commission shall perform a follow-up review of this Use Permit 6 months after business operation commences. The purpose of the 6-month review is to assess the recycling operation and any potential impacts to surrounding land uses. The applicant shall provide the required fee and public hearing notification materials to the Planning Division staff at least 5 weeks prior to the 6-month date".

Commissioner Hay commented that he knows the Bumb family and they are honest, so he feels comfortable with the request.

Motion to approve Use Permit No. 1608, with the amended COA #13 and added COA #18 as stated above.

M/S: Chua/Hay

AYES: 6

NOES: 1 (Williams)

Commissioner Williams stated that he feels that this project is not appropriate for the area.

IX. NEW BUSINESS

Chair Nitafan opened Item IX for discussion.

*(October 10, 2001
Planning Commission
Meeting)*

Motion to change the October 10, 2001 Planning Commission meeting start time to 5:30 p.m. and the Subcommittee meeting to 5:00 p.m.

M/S: Chua/Lalwani

AYES: 6

NOES: 1 (Hay)

Commissioner Hay mentioned that there is an expected timeframe for Planning Commission Meetings and this is a change from that. The City Manager should have taken this into consideration when deciding to hold the ceremony at 7:00 p.m.

X. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:50 p.m. to the next regular meeting of October 10, 2001

Respectfully Submitted,

TAMBRI HEYDEN
Planning Commission
Secretary

VERONICA RODRIGUEZ
Recording Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

October 10, 2001

**I. PLEDGE OF
ALLEGIANCE**

Chair Nitafan called the meeting to order at 5:30 P.M. and led the Pledge of Allegiance.

II. ROLL

CALL Present: Nitafan, Sandhu, Chua, Hay, Galang, Williams

Absent: Lalwani (arrived at 5:40 p.m.)

Staff: Burkey, Faubion, Heyden

**III. PUBLIC
FORUM**

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

**IV. APPROVAL OF
MINUTES**

September 26, 2001

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of September 26, 2001.

Motion to approve the minutes of September 26, 2001 as submitted.

M/S: Sandhu/Galang

AYES: 6

ABSENCES: 1 (Lalwani)

**V.
ANNOUNCEMENTS**

Tambri Heyden, Planning Manager, reported that at 6:45 p.m., the City will be holding a special event at the Sports Center, located at 1325 E. Calaveras Boulevard, in honor of those who lost their lives and their families during the September 11, 2001 terrorist tragedy.

Vice Chair Sandhu announced that he was appointed as Santa Clara County Recreation Commissioner on September 25, 2001.

Commissioner Hay questioned if the BART (Bay Area Rapid Transit) major investment study presentation will be agendized on the October 24, 2001 Planning Commission meeting and Ms. Heyden responded "yes".

Motion to agendize the BART major investment study presentation for the October 24, 2001 Planning Commission meeting.

M/S: Hay/Chua

AYES: 6

ABSENCES: 1 (Lalwani)

**VI. APPROVAL OF
AGENDA**

Chair Nitafan called for approval of the agenda.

There were no changes to the agenda.

Motion to approve the agenda.

M/S: Sandhu/Galang

AYES: 6

ABSENCES: 1 (Lalwani)

**VII. CONSENT
CALENDAR**

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Commissioner Hay requested to put Item No. 3 on consent.

**3. "S" ZONE APPROVAL AMENDMENT & COMMISSION
DETERMINATION REGARDING SECTION 42-10-2(C):**

(a) A request to change roof material on Wells Fargo Bank at 1715 Landess Avenue (APN: 88-43-031) from wood shake to a metal tile that simulates the appearance of wood shake.
Applicant: Acker & Guerrero Roof Co. (on behalf of Wells Fargo Bank).

(b) Consider delegating to Planning staff the limited authority to approve re-roofs that use metal tiles simulating the appearance of the

original roof material. Initiated by Staff. Project
Planner: Steve Burkey, 586-3275.
(Recommendation: Approval)

Ms. Heyden brought to the Commission's attention that Item No. 3 includes consideration of delegating to staff additional authority relative to certain kinds of re-roofs and that the Commission may want to discuss this.

Chair Nitafan commented that the proposal is for wood shake roof issues to go before staff, not the Subcommittee.

Following discussion from Commissioner Chua, Commissioner Hay withdrew his suggestion.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

*** 2 "S" ZONE APPROVAL-AMENDMENT:** Request to deviate from the approved sign program for Score! Personal Academic Training Center, 75 N. Milpitas Boulevard (APN 28-22-132). Applicant: Lorne Umbertis, Score! Educational Centers. Project Planner: Annelise Judd, 586-3273.
(*Recommendation: Approval*)

Motion to approve the consent calendar.

M/S: Hay/Sandhu

AYES: 6

ABSENCES: 1 (Lalwani)

**VIII. PUBLIC
HEARINGS
1.SUBDIVISION
ORDINANCE
AMENDMENT:
(City of Milpitas)**

Tambri Heyden, Planning Manager, presented a proposal to modify the process and methods of calculating in lieu fee s for parkland dedications in residential subdivisions, and recommended approval based on the findings and special conditions in the staff report.

In response to **Commissioner Galang's** clarifying question, Ms. Heyden responded that the ordinance would allow a developer to provide private parkland and public parkland or in lieu of dedication, pay a fee equal to the value of the land that would have been required to be dedicated.

Commissioner Hay mentioned his concerns about City standards, which are supposed to be 3 acres of parkland per 1,000 residents, but that are now 2.5 acres of parkland per 1,000 residents. Commissioner Hay felt we need flexibility for affordable housing because developers are using available land, which is becoming scarce, but is concerned how fees collected would provide parkland for citizens?

Ms. Heyden replied that when a developer opts to pay the fee in lieu of dedication, there is a delay before the City can provide parkland and the operating expenses to support a new park. When land to acquire parkland becomes less available, there are creative ways the city can meet parkland requirements such as trails and mini parks, rather than large areas of land.

Commissioner Hay commented how the Midtown plan has a provision for parkland based on trails and purchases of parkland. He mentioned his concern about efforts to comply with our requirements in terms of affordable housing, and how it has impacted quality of life as we push aside our parks in order to put up more housing. The City Council has flexibility to negotiate these deals, but the expectation is to meet our standards.

Following discussion, Ms. Heyden commented that City administration has talked about initiating park master

planning within the next 12 months, which would better address these issues. The City can also re-review its park standard as part of the general plan update process.

In response to Vice Chair Sandhu, Ms. Heyden reiterated that the amendment proposes that the City will set the land value on a yearly basis.

Commissioner Chua referred to the formula on Page 1 that explains the element used to determine the average population figure over the average population for each housing type, and needed clarification from staff. Ms. Heyden responded that the only figure that would change is the average population per each housing type. Ms. Heyden also mentioned that the City is allowing for a developer to hire his own professional to propose figures that are more reflective of his specific project based on location and type of housing. The current formula was based on single family, detached housing which would have a greater number of persons per household than multi-family housing located in an urban area. So, the change should make the process more accurate.

Commissioner Hay commented that there are less dollars generated for the City for the purpose of parks then if we stay with the existing formula. He is not sure if the formula is accurate because he feels that it reduces the income from park fees and we are losing available land. He went on to say that he believes that we need to address the issue of parks, and is looking forward to park master planning within the City.

Chair Nitafan questioned if the land value process will be started in September, and since land is valued higher in the summer than winter, will the information that is presented be accurate? Ms. Heyden responded that the land value would be set yearly on July 1st, which is the beginning of the fiscal year.

In response to Chair Nitafan's question regarding accuracy,

Ms. Heyden responded that when developers finance, they need to have all their costs in front of them. By making a fee determination sooner in the approval process, they have a full picture of their development costs. Staff's comment regarding accuracy was in reference to the formula rather than the time the fee was calculated.

Chair Nitafan mentioned his concern about the developer being able to make changes to the formula and fee and echoed Commissioner Hay's concerns about parkland. Chair Nitafan mentioned how the City of Sunnyvale has standards of 1.25 acres per 1,000 residents; a lower standard than the City of Milpitas, but mentioned we need to define how parks will be provided during the tentative map process, and try to discourage in lieu fee.

Ms. Heyden mentioned that it is up to City Council to evaluate whether to take land or the fee, and it wouldn't make sense to require parkland if the project is located where land is very high in cost because then housing would not be affordable, making it difficult to meet our affordable housing goals.

Chair Nitafan opened the public hearing on Item No. 1.

There were no speakers from the audience.

**Close Public
Hearing**

Item No. 1

Motion to close the public hearing.

M/S: Sandhu/Hay

AYES: 7

Motion to approve the Subdivision Ordinance Amendment as presented.

M/S: Sandhu/Galang

AYES: 7

IX. NEW BUSINESS

**2. "S" ZONE
APPROVAL
AMENDMENT &
COMMISSION
DETERMINATION
REGARDING
SECTION 42-10-
2(C):**

(Wells Fargo Bank)

Steve Burkey, Associate Planner, presented two requests:

a) to change roof material on Wells Fargo Bank at 1715 Landess Avenue from wood shake to a metal tile that simulates the appearance of wood shake and;

b) to consider delegating to Planning staff the limited authority to approve re-roofs that use metal tiles simulating the appearance of the original roof material.

Mr. Burkey recommended approval based on the findings and special conditions in the staff report.

In response to Chair Nitafan's question, Mr. Burkey clarified that this request is to give staff the authority (not the Subcommittee) to approve commercial or industrial roof material that would allow for less review by the Planning Commission.

Chair Nitafan thanked staff for doing extensive research on

metal shake roofs, and was thankful that they were able to work with Wells Fargo, instead of appealing this to the City Council. Mr. Burkey gave credit to Staci Pereira, Junior Planner, who did all the research and for Tambri Heyden, Planning Manager, for believing that a solution could be reached.

Commissioner Williams asked what color roof tile Wells Fargo originally wanted and how it compares to the proposed metal tile color and the original wood shake color. Mr. Burkey responded that it is a brownish color, and he is working with the applicant to pick out the matching shade.

Commissioner Williams asked about checklist criteria staff might use to determine whether the proposed tile simulates the appearance of the original material. Mr. Burkey responded that when an applicant comes in for a re-roof request, the planner first decides if the application will be accepted or not. The next step is to determine if the re-roof request needs to go to the Planning Commission, or if the decision can be made at a staff level. The third step will require a visual determination from staff to research the quality and appearance of the roof. Staff will review materials and get samples.

In response to Commissioner William's question, Mr. Burkey clarified that fire code compliance will be addressed in the decision-making process of the plan check review of the re-roofs.

Commissioner Chua was amazed at how many different materials are available for roofing and stated that she has learned a lot from Mr. Burkey's presentation. She also asked whether staff was recommending delegation of the re-roof authority to staff or the Subcommittee. Mr. Burkey responded that staff is requesting two items; approval for metal tile and whether the Planning Commission is willing to delegate this approval process to a staff level.

Commissioner Galang wanted an explanation of the difference in the proposed metal roof tile versus the original wood shake material the applicant requested.

Mr. Burkey recalled the October 22, 2001 Planning Commission meeting when the applicant compared wood shake to 40-year asphalt. Mr. Burkey explained that wood shake material is flat and thicker, while the proposed metal tile simulates wood shake, but is not flat and has a quality profile.

Commissioner Lalwani commented that she is very much in favor of giving staff the requested authority given her experience serving on the Subcommittee.

Commissioner Chua commented on how well metal roof material can be made to look like wood shake material.

Commissioner Hay needed clarification about whether the Subcommittee or the Planning Commission has the authority to review commercial roofs that involve changing material. Mr. Burkey responded that the Subcommittee cannot review commercial roofs that involve changing metal type to asphalt type.

Commissioner Hay referred to Municipal code Section 42-10-2(C) and asked if staff is requesting that the Planning Commission change City code. Mr. Burkey responded that based on a previous interpretation, staff believes the Planning Commission has the authority to delegate the re-roof task to staff.

Commissioner Hay mentioned his confusion because the city ordinance states that staff are not allowed to approve re-roofs that do not use the same material that was originally approved. He also mentioned his concern that if the process is going to be changed, that the Commission does not have legal authority to change the city ordinance.

Kit Faubion, City Attorney, commented that asphalt composition and metal roof material cannot be approved by staff for residential, but suggested to postpone deliberation on the request to consider delegating to Planning staff the limited authority to approve re-roofs that use metal tiles simulating the appearance of the original roof material while staff conducts more research.

Chair Nitafan agreed to postpone the second part of the recommendation.

Motion to approve to change in roof material on Wells Fargo Bank at 1715 Landess Avenue from wood shake to a metal tile that simulates the appearance of wood shake based on the findings and recommendations of staff and postpone action on this issue of delegating roof review authority.

M/S: Lalwani/Hay

AYES: 7

X. ADJOURNMENT There being no further business, the meeting was adjourned at 6:50 p.m. to the next regular meeting of October 24, 2001.

Chair Nitafan adjourned in memory of all the people that died in the September 11, 2001 tragedy, and also for all the sacrifices that our military and civilian citizens in the United States of America are making.

Respectfully Submitted,

TAMBRI HEYDEN
Planning Commission
Secretary

VERONICA RODRIGUEZ
Recording Secretary

CITY OF MILPITAS
Approved
PLANNING COMMISSION MINUTES
HOUSING TOUR
January 20, 2001

Meeting commenced at 9:00 A.M.

Attendees: Present: Hay, Lalwani, Sandhu, Chua, Williams

Absent: Nitafan, Galang

Staff: Barone, Rush, Fujimoto, and Hom

Members of the Public: Andre Hunt, Marie Pham, David Richerson, Kathy Simmons, Mike Mendizabal, Ray Maglalang, Frances Maglalang, Bart Simmons, George Donovan, Mike Donovan, and Vince Songcayawon.

SITE 1: ***Pavona Apartments, Taylor/Seventh, San Jose.***

This is a 3.36-acre, in-fill development by Fairfield Residential Companies. The structure has a total of 131 apartments at a density of 39 dwelling units per acre (dua), 314 parking spaces at a parking ratio of 2.3 stalls per unit. Architecture is podium style design with three levels of housing over one level of below ground parking. Architecture appears minimal with flat walls and no recessed windows, gated access, and limited landscape features. However, underground garage was not visible due to architectural treatment for ventilation.

SITE 2:***Miraido Village Apartments, Sixth/Jackson, San Jose.***

This site was developed on 3.23-acre as a horizontal mixed-use development. It has a total of 171 units at a density of 23 duu, 363 parking spaces at a parking ratio of 2.12 stalls per unit. Surface parking is located at rear of development and street parking is adjacent to site.

Ms. Rush noted that the architecture is a good pedestrian-friendly design: buildings are located at back of wide sidewalk, storefronts on first floor, Japanese style architecture well suited for neighborhood. Landscaping area is only 260 square feet, however, it is located in the public areas and uniform in design throughout the project.

SITE 3:***Paseo Plaza, Fourth/San Fernando, San Jose***

Goldrich and Crest developed this 2.86-acre site, as a mixed use and transit-oriented development of condominiums and townhomes. It has a total of 210 units at a density of 60 duu, and 369 parking spaces at a parking ratio of 1.76 stalls per unit. Architecture is podium style with three and four levels of housing over two levels of underground parking.

Ms. Rush presented information on the sites architecture and urban design. Noted were: good articulation on building walls, building faces out to street and is pedestrian oriented, located at back of wide sidewalk, and streetscaping. Attractive and mature landscaping is located over parking garage. However, gated access detracts from pedestrian design.

Ms. Barone noted that the area was conducive to its design objectives. The area was aesthetically pleasing. The stoops gave the structure a sense of belonging to the community.

SITE 4: ***101 San Fernando, Fourth Street/San Fernando, San Jose.***

Sited on 2.9 acre, this mixed-use and transit-oriented apartment project was developed by Forest City Developers and is currently under construction. It has a total of 323 units at a density of 110 du. The number of parking stalls is unknown. Architecture is podium style with three levels of housing over two levels of underground parking.

Ms. Rush presented information on architecture as minimal in comparison to adjacent developments, flat walls and small windows, no articulation of building, and is a gated community.

SITE 5: ***Villa Torino Apartments, First Street/Julian Avenue, San Jose***

This is 3.86-acre transit oriented development project by Sobrato Development. It has a total of 198 units at a density of 50 du. Architecture is podium style with three levels of housing over two levels of parking. There are 297 parking spaces at a ratio of 1.5 stalls per unit, and is a gated development.

Ms. Rush noted the architecture as having good articulation on building walls; good use of color and varying rooflines to differentiate the large building into smaller units; pedestrian oriented street design (i.e. building faces out to street

and is located at back of wide sidewalk that are treated with streetscaping); and site also demonstrated good use of open space with their landscaping. Landscape elements included mature trees and colorful vegetation. This development is approximately seven years old and has won architectural design awards. Walking tour included tour of reception area, grounds, and housing unit.

Ms. Barone commented that housing development in downtown areas is a key element to reviving city centers because residential uses bring people and help sustain downtown elements vital to the area.

SITE 6: ***Ryland Mews, First Street/Bassett Street, San Jose.***

This is a 2.3-acre, transit-orient, mixed-use condominium development by Green Valley. This site has a total of 131 units at a density of 57 du/a, and 263 parking spaces at a parking ratio of 2.01 stalls per unit. Architecture is podium design with three levels of housing over two levels of parking.

Ms. Rush commented that the design elements resemble a neighborhood village. Design elements were achieved by the use of strong entry features (stoops), good articulation on building walls, pedestrian oriented buildings, and incorporating good landscaping designs. Variations of color, building walls, and rooflines also helped to accentuate the front facades. Development is approximately ten years old and is not a gated community.

SITE 7:***Waterford Place Apartments, 1700 N. First Street, San Jose.***

This is a 5.9-acre transit oriented development project that was developed by Legacy Partners. There is a total of 238 units at a density of 40 du/a, and a total of 416 parking spaces at a parking ratio of 1.75 stalls per unit. Architecture consists of three levels of apartments surrounding the interior parking structures. This design is considered a "doughnut" style because the units surround the parking and catwalks extend from parking structure to housing for each floor. A walking tour of the site, parking structures, and rental unit was provided.

Ms. Rush noted buildings addressed the street fronts, but limited on the interior. The architecture was minimal with large flat walls, poor color and roof design. Landscaping did not sustain well most likely due to limited solar from the tall structures.

SITE 8:***The Crossings, 2255 Showers Avenue, Mountain View.***

This is a 17-acre, mixed use and transit oriented development project by TPG and Peter Calthorpe. Development incorporates adjacent transit facilities, retail, and housing, and is a mixture of for-sale and rental units with small lot single-family, townhouse, rowhouses, and apartments. A total of 350 units with a density range of 21 to 70 du/a, a total of 772 parking spaces at an overall parking ratio of 2.2 stalls per unit. Parking is shared with adjacent Caltrain and Light Rail station. Condominiums and row houses are podium style. Conducted a walking tour of site.

Ms. Rush noted the architectural design was

pedestrian friendly with good use of porches, front stoops and flower boxes facing pedestrian walkways. Parking is located below structures except in the single family detached, and not visible from public spaces.

Ms. Rush and Ms. Barone commented open space used on this development was well done. The housing units open onto the green spaces. Milpitas' requirement for open space can be low if designed well.

SITE 9:

Park Place Apartments, Castro Street/Church Street, Mountain View.

This is a 7.5 acres, mixed use and transit oriented development by Pegasus Development Company. It has a total of 460 units at a density of 50 du/a, 835 parking spaces at a parking ratio of 1.7 stalls per unit. Architecture is podium style with three levels of housing over one level of parking. Art and fountain features are located throughout development. Landscaping over parking garage included mature trees. Pedestrian walkways were tree lined and attractive. Conducted a walking tour of site, clubhouse, and rental unit. This is one of the first residential projects Mountain View approved in the Castro Street area to help revitalize the downtown and support improvements.

Castro Street Ms. Barone stated that Mountain View invested heavily in the revitalization of Castro Street through redevelopment. The redevelopment included significant street improvements and planning. These are long term investments. It took approximate 15 years of gradual change before becoming a successful destination place.

Castro Street is a classic Main Street with storefronts located at the back of wide sidewalks, street trees are located in "bulb-outs" between parked cars, and parking is located at both sides of street. These elements provide a strong pedestrian friendly design where people and vehicles share same spaces. The area utilizes good use of street furniture (i.e. light fixtures, tree grates and protectors, and benches. A mixture of uses is located in the area including retail, restaurant, residential, office, and civic.

Adjournment Tour ended at 1:00 P.M., adjourn to the next regular meeting of January 24, 2001.

Respectfully submitted,

Marina Rush
Associate Planner
Cindy Hom
Recording Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

November 14, 2001

**I. PLEDGE OF
ALLEGIANCE**

Chair Nitafan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL

Present: Nitafan, Sandhu, Chua, Hay, Lalwani,
Williams
Absent: Galang
Staff: Burkey, Faubion, Guido, Heyden

**III. PUBLIC
FORUM**

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers.

**IV. APPROVAL OF
MINUTES**

October 24, 2001

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of October 24, 2001.

Motion to approve the minutes of October 24, 2001 as submitted.

M/S: Sandhu/Lalwani

AYES: 6

ABSENCES: 1 (Galang)

**V.
ANNOUNCEMENTS**

Tambri Heyden, Planning Manager, asked the Planning Commissioners if they are receiving monthly status reports for transportation projects. The Planning Commission indicated that they were.

Ms. Heyden also announced that at the November 6, 2001 City Council Meeting, the BART Resolution that was approved at the October 10, 2001 Planning Commission meeting was approved with a modification, and also approved by the VTA and BART Boards.

Commissioner Hay wanted to congratulate BART, VTA, the City of Milpitas, San Jose, and Fremont for their strong efforts of bringing BART to Santa Clara County.

Ms. Heyden reported that a consensus is needed by the Planning Commission to hold a Housing Element Workshop on November 28, 2001 prior to the Planning Commission meeting. A consultant has been hired to discuss where we are with the project, what our obligations are under law, and a general overview of the project. Staff recommends having the workshop commence at 5:30 p.m., and the subcommittee meeting would begin at 5 p.m. Dinner would be provided at 6:30 p.m., and the Planning Commission meeting would start

at 7:00 p.m.
The Commissioners concurred.

Commissioner Hay commented that if Commissioner Galang could not make it to the 5:30 p.m. subcommittee, he could represent him.

Ms. Heyden also informed that a hearing date of January 30, 2002 is planned for the Midtown Specific Plan. The agenda would include the specific plan, Environmental Impact Report (EIR), rezonings and general plan amendments. Prior to the hearing, a Midtown workshop is advised for a Saturday morning in January.

Following discussion, Commissioner Lalwani suggested January 26, 2002 for the workshop and Vice Chair Sandhu recommended that the meeting start at 9 a.m. Consensus was reached. In response to Chair Nitafan, Ms. Heyden replied that staff will be sending out a reminder for the January 26, 2002 Workshop.

Due to the Thanksgiving holidays, Ms. Heyden mentioned that the Planning Commissioners' packets would be available a week prior to the Wednesday meeting.

In response to Commissioner Chua's question, Ms. Heyden replied that the last Planning Commission meeting of the year is December 12, 2001.

Commissioner Lalwani announced that tonight is the Indian celebration called "Festival of Lights" which is the start of the new year.

Vice Chair Sandhu announced that he has been chosen as the Park and Recreation Commissioner for regional parks of Santa Clara County.

Chair Nitafan announced that the Knights of Columbus will be

hosting the annual Thanksgiving Dinner on November 22, 2001 at the Milpitas Senior Center. Dinner will be served from 10 a.m. to 5:00 p.m. Volunteers are encouraged to come and donations can be dropped off at St. John's Church or at the Senior Center. Chair Nitafan also wanted to wish everyone a Happy Thanksgiving and mentioned for everyone to be thankful that we are spending Thanksgiving in our homes, while the men and women are serving our country overseas.

**VI. APPROVAL OF
AGENDA**

Chair Nitafan called for approval of the agenda.

Ms. Heyden recommended that Item Nos. 1 and 2 be switched, since Item No. 1 is contingent upon the approval of Item No. 2.

Motion to approve the agenda with the changes indicated.

M/S: Hay/Sandhu

AYES: 6

ABSENCES: 1 (Galang)

VII. CONSENT CALENDAR

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Commissioner Chua requested that Item Nos. 1 and 2 be added to consent if both applicants (Nextel and Cingular) agree with all conditions indicated.

Nextel Representative and Cingular Representative replied that they agree with the conditions.

Motion to add Item Nos. 1 and 2 to the consent calendar.

M/S: Williams/Chua

AYES: 6

ABSENCES: 1 (Galang)

Chair Nitafan opened the public hearing on consent Items Nos. 1, 2, 4, and 5.

There were no speakers from the audience

Motion to close the public hearing.

M/S: Williams/Sandhu

AYES: 6

ABSENCES: 1 (Galang)

Motion to approve the consent calendar (Item Nos. 1, 2, 4, and 5) as submitted with staff recommendation and special conditions as follows:

*** 1. USE PERMIT NO. 1611 AND "S" ZONE**

AMENDMENT: A request for approval to locate roof-mounted telecommunications antenna behind the building parapet, and ground-level equipment to be screened by existing and proposed vegetation and a tiered masonry landscape structure on the northeast street corner of Great Mall Parkway and Montague Expressway at 341 Great Mall Parkway (Heald Business College). (APN 86-24-036). Applicant: Nextel Communications. Project Planner: Frank Guido, 586-3284. (Recommendation: Approval with Conditions)

*** 2. USE PERMIT NO. 1607 AND "S" ZONE**

AMENDMENT: A request for approval to locate roof-mounted telecommunications antenna behind the building parapet, and ground-level equipment to be screened by an enclosure, existing and proposed vegetation and a tiered masonry landscape structure on the northeast street corner of Great Mall Parkway and Montague Expressway at 341 Great Mall Parkway (Heald Business College). (APN 86-24-036). Applicant: Cingular Wireless. Project Planner: Frank Guido, 586-3284. (Recommendation: Approval with Conditions)

*** 4 USE PERMIT NO. 1558 AND "S" ZONE**

APPROVAL-AMENDMENT: Request to relocate four panel antennas from the west side to the north side of the equipment penthouse for the building located at 1900 McCarthy Boulevard (APN 86-3-16). Applicant: Nextel Communications, Richard Tang. Project Planner: Annelise Judd, 586-3273. (Recommendation: Approval with Conditions)

*** 5 "COUNTRY ESTATES" VESTING**

TENTATIVE MAP TIME EXTENSION: Request for final, 12-month time extension of a tentative map for a 6 lot hillside residential subdivision at 1499 Country Club Drive (APN 29-03-011). Applicant: Adrienne Rakitin. Project Planner:

Staci Pereira, 586-3278. (Recommendation: City Council Approval with Conditions)

M/S: Hay/Williams

AYES: 6

ABSENCES: 1 (Galang)

Ms. Heyden wanted to commend Nextel, Cingular, and **Frank Guido, Junior Planner**, for their collaboration on developing a screening feature that will be an asset to the City and to the intersection.

Commissioner Williams echoed Ms. Heyden's remarks, and was pleased with the organization of the staff report.

Commissioner Chua noted that the reason she requested this item be moved to consent was not because of any lack of significance, but because staff did a thorough job with the report and the materials.

Chair Nitafan agreed and was pleased with the project.

VIII. PUBLIC HEARING

Chair Nitafan opened the public hearing on Item No. 3.

**3.USE PERMIT
NO. 1613 AND
SITE AND
ARCHITECTURAL
APPROVAL:** (City
of Milpitas)

Steve Burkey, Associate Planner, presented a request to construct a 62 ft. tall City identification sign (with the words "City of Milpitas" on it) to be located on the east side of North McCarthy Boulevard at the northernmost end of the McCarthy Center Business Park, and recommended approval based on the findings and special conditions in the staff report.

Commissioner Williams asked if this will be the first of many such monuments coming to the City, and if so, are we establishing future conditions.

Mr. Burkey replied that staff is establishing identity and other entryways to the City.

In response to Commissioner Williams, Mr. Burkey responded that the area near McCarthy Business Park was chosen because of timing, and due to business parks, shopping identification signs, landscape, and lighting in the area. The particular design was chosen as an identification sign for the City because of the modern design. Given the variety of choices, this design is very effective and unique.

Commissioner Williams commented how the City of Milpitas has always had identity issues with the media. The news is always referring to Milpitas as "San Jose", making this an issue with local citizens.

Commissioner Williams also remarked that he has concerns if the McCarthy Center Business Park is the only location for the city sign, but if there will be other future submittals in different locations, then he is looking forward to them.

In response to Commissioner Hay's questions, Mr. Burkey responded that there is no significance to the chosen design, other than wanting to make it a sculptural modern, futuristic looking design that incorporates design elements from the new City Hall and the McCarthy Ranch signs.

Commissioner Lalwani commented that she likes the architectural design and asked about the cost.

Elizabeth Racca-Johnson, Engineering Project Manager, estimated that the cost of the sign ranged from \$175,000 to \$200,000, and mentioned that there are sufficient funds allocated in the project account. The budget price will also be addressed to City Council.

In response to Commissioner Lalwani's question, Ms. Racca-Johnson replied that staff has requested that the architect provide materials that will have an infinite life span. Materials that require the least amount of maintenance such as stainless steel and brass were some of the recommended materials.

Commissioner Chua commented that she likes the smooth design, but mentioned that the color background of the words "City of Milpitas" are too dark

Ms. Racca-Johnson replied that there are two alternatives that staff has to choose from, such as cutting out the text and making the letters lighter, so that light will reflect.

Mr. Burkey added that the interior of the sign itself might have a darker background such as light blocks, and the light will reflect from inside it.

Vice Chair Sandhu congratulated staff on the sign, and asked if this type of sign will be at other designated locations.

Mr. Burkey responded that over the next 5 years, the Capital Improvement Plan (CIP) will have funding set aside for conceptual ideas for signs for the northern part of I/680.

Mr. Burkey also mentioned that other funds are allocated for gateway entryways, but site constrictions might not allow the City to put this type of sign everywhere.

Chair Nitafan asked whether the landscaping plans will be coming before the Subcommittee or the Planning Commission.

Mr. Burkey responded that it is up to the Planning Commission, however they see appropriate. However, staff recommends approval at a staff level.

Chair Nitafan requested that it come before the Subcommittee.

Kit Faubion, City Attorney, clarified that Chair Nitafan's request is an amendment to Condition of Approval #2 of the staff report which is:

Prior to issuance of a building permit a detailed landscaping plan shall be submitted to and approved by the Subcommittee.

Chair Nitafan also asked why this specific location was chosen.

Mr. Burkey responded that this specific location was chosen because it has good visibility and is not crowding any certain area. The location also doesn't interfere with the PG&E transmission line and is not obscured by the highway.

Chair Nitafan asked what the distance was between the sign and the I/880 emergency lane.

Ms. Racca-Johnson indicated that it is 5 feet.

Commissioner Williams questioned the maintenance of the sign ; and aspects that lend to bird nesting and droppings.

Ms. Racca-Johnson replied that within the cut out will be an inner cut out that can be cleaned and the design is being further studied regarding the bird issue raised.

Chair Nitafan opened the public hearing on Item No. 3.

There were no speakers from the audience.

Close Public

Hearing Item No. 3

Motion to close the public hearing. M/S: Hay/Sandhu
AYES: 6
ABSENCES: 1 (Galang)

Commissioner Hay echoed the concerns about the color of the sign, and commented that the blue color will have a tendency not to stand out too much. He is supportive of Commissioner Chua's comments regarding the issue.

Motion to approve Use Permit No. 1613 and Site and Architectural approval with the amendment to COA #2 as noted above and recommending that staff further study the lettering/background colors and bird attraction aspects of the design.

M/S: Hay/Williams

AYES: 6

ABSENCES: 1 (Galang)

IX.
ADJOURNMENT

There being no further business, the meeting was adjourned at 8:05 p.m. to the next regular meeting of November 28, 2001.

Respectfully Submitted,

TAMBRI HEYDEN
Planning Commission Secretary

VERONICA RODRIGUEZ
Recording Secretary

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

November 28, 2001

[Workshop Minutes](#)

- I.** Chair Nitafan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**PLEDGE OF
ALLEGIANCE**

- II.** Present: Nitafan, Sandhu, Chua, Galang, Hay, Lalwani,
Williams

ROLL CALL Absent: None
Staff: Faubion, Fujimoto, Heyden

- III.** Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

PUBLIC FORUM

There were no speakers.

- IV.** Chair Nitafan called for approval of the minutes of the Planning Commission meeting of November 14, 2001.

**APPROVAL OF
MINUTES**

Motion to approve the minutes of November 14, 2001 as submitted.

M/S: Sandhu/Hay

AYES: 6

November 14, 2001

ABSTENTION: 1 (Galang-since not in attendance at the 11/14/01 meeting)

V.

ANNOUNCEMENTS

Tambri Heyden, Planning Manager, announced that due to the short holiday week, there are four different projects that have revised conditions of approvals, and some of the conditions were not coordinated with the applicants prior to the meeting. The revised and added conditions were handed out prior to the start of the meeting. Ms. Heyden asked the Commissioners to take notice of Item No. 6, 31 Winsor Street, which has new calculations on certain pages of the staff report.

Commissioner Hay mentioned that Abel Plaza has the lotto sign out on the sidewalk again and asked that code enforcement follow up with the owner.

Commissioner Chua announced that FEMA has re-evaluated the City's grading for flood zone purposes and has granted the City a Grade 5.

Commissioner Galang asked if there was going to be a December 26, 2001 Planning Commission meeting. Ms. Heyden indicated that there was not.

Commissioner Lalwani announced on behalf of the Chamber of Commerce and **Fire Chief Bill Weisgerber**, there will be a luncheon meeting on December 6, 2001 at the Summitpointe Golf Club regarding personal protection. Commissioner Hay congratulated Commissioner Chua for her work on the Flood Plain Subcommittee that led FEMA to approve the City for a grade 5 that will benefit many residents.

Chair Nitafan announced that on behalf of the Knights of Columbus, he wanted to thank all the volunteers and donations for feeding 2,955 poor and homeless persons on Thanksgiving day.

VI.

APPROVAL OF

AGENDA

Chair Nitafan called for approval of the agenda. There were no changes to the agenda. **Motion** to approve the agenda.

M/S: Hay/Williams

AYES: 7

VII.

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

CONSENT

CALENDAR

Ms. Heyden informed that there is a proposed change to consent Item No. 1 condition #4, to relocate the on-site trailer within 60 days to rather than 30 days. The applicant and staff are in agreement with the new condition, as well as the rest of the conditions. The Commissioner may wish to remove this from the consent calendar.

Vice Chair Sandhu requested to add Item Nos. 5, 8, and 9 to the consent calendar.

Commissioner Chua requested to add Item Nos. 6 and 7 to the consent calendar if the applicants agree with all of the conditions of approval.

Representatives from the 31 Winsor Street (Item No. 6) and 905 Montague Expressway (Item No. 7) projects replied that they were in agreement with the conditions.

Commissioner Williams requested to remove Item No. 1 from the consent calendar.

Chair Nitafan opened the public hearing on Consent Items Nos. 4, 5, 6, 7, 8, and 9.

There were no speakers from the audience.

Motion to close the public hearing on Item Nos. 4, 6, and 7 and continue the public hearing on Item Nos. 5, 8, and 9 to the dates noted below.

M/S: Hay/Galang

AYES: 7

Motion to approve the consent calendar on Item Nos. 4, 6, 7, and 10 as submitted with staff recommendation and special conditions as follows.

*** 4. USE PERMIT NO. (P-UP2001-34):** A request to temporarily locate an on-site trailer as a mobile laboratory for six months until interior remodeling is complete at 521 Cottonwood Drive (APN: 86-03-031). Applicant: Medarex. Project Planner: Annelise Judd, 586-3273. (Recommendation: Approval with Conditions)

*** 5. USE PERMIT NO. (P-UP2001-33) AND "S" ZONE AMENDMENT:** A request for approval of a wireless facility with a) antenna in a 16 inch diameter structure extending 10 feet above the building roof parapet at a point 80± feet behind the front edge of the building and 180 ± feet from the street curb and b) equipment cabinets at 1501 McCarthy Boulevard (APN: 086-03-005). Applicant: Cingular Wireless. Project Planner: Frank Guido, 586-3284. (Recommendation: Continue to February 13, 2002)

*** 6. USE PERMIT NO. 1606 AND "S" ZONE AMENDMENT:** A request to operate an auto body shop with two (2) service bays in an existing 6,400± square foot building and add exterior building façade improvements, awnings, landscaping, perimeter masonry walls and a front metal picket gate at 27-31 Winsor Street (APN: 028-24-028). Applicant: Bunpor Lam. Project Planner: Frank Guido, 586-3284. (Recommendation: Approval with Conditions)

*** 7. "S" ZONE NO. (P-SZ2001-12):** A request to approve the following improvements related to an existing 24,000 square foot warehouse being converted to a research and development use: new entry way, windows and doors, new 89 stall parking lot, and landscaping at 905 Montague (also known as 1589 Milpitas Boulevard; APN: 086-32-27). Applicant: John Ha, AIA. Project Planner: Frank Guido, 586-3284. (Recommendation: Approval with Conditions)

*** 8. MINOR TENTATIVE PARCEL MAP:** (Continued from October 24, 2001) A request to consolidate two parcels into one legal lot in order to provide required on-site parking (APN: 022-24-005 and 022-24-032). Applicant: George Famous for Pacific Bell. Project Planner: Staci Pereira, 586-3278. (Recommendation: Continue to January 9, 2002)

*** 9. USE PERMIT NO. 1598:** (Continued from October 28, 2001) A request to co-locate telecommunication antennas on an existing 100-foot monopole at 200 Serra Way (APN: 86-07-032). Applicant: MetroPCS. Project Planner: Troy Fujimoto, 586-3287. (Recommendation: Continue to January 9, 2002)

*** 10. "S" ZONE AMENDMENT:** Request to construct a new enclosure containing play equipment and outdoor seating at an existing Burger King restaurant at 1475 S. Dempsey Road and make building and roof material and color changes (APN: 88-35-015). Applicant: Robert DeGrasse. Project Planner: Troy Fujimoto, 586-3287. (Recommendation: Approval with Conditions)

M/S: Hay/Galang
AYES: 7

VIII.

Chair Nitafan opened the public hearing on Item No. 1.

PUBLIC HEARING

1.

**USE PERMIT NO.
1554, "S"-ZONE**

**APPLICATION and
EIA NO. 747:**
*(Mosque at 91
Montague
Expressway)*

Troy Fujimoto, Assistant Planner, presented a request to construct a 24,483 square foot mosque at 91 Montague Expressway and recommended approval based on the findings and special conditions in the staff report.

Commissioner Williams mentioned that he likes the design of the building, but expressed concern about service hours (5 a.m., 1 p.m., 6:15 p.m., 8 p.m. and 10 p.m.), mentioning that the late afternoon time coincides with rush hour on Montague Expressway; and whether there will be adequate parking to accommodate members from other cities.

Mr. Fujimoto clarified that Friday's service would generate the most people. There are 127 on-site stalls and 125 people are estimated to come, leaving 2 stalls left. However, it is not expected that everyone attending will drive alone, so staff feels there will be adequate parking.

Commissioner Hay asked if the front sidewalk would be extended, if there will be underground utilities, and if the colored elevations on display depicted the actual color.

Mr. Fujimoto clarified that there would be a continuous sidewalk facing Montague Expressway and there will be sewer and drainage utilities underground. He also mentioned that the traditional colors for a mosque are blues and greens.

In response to Commissioner Hay's question, Mr. Fujimoto responded that Condition #6 was recommended to the applicant as follows:

Prior to building permit issuance, the applicant shall submit to the Planning Division for approval elevations and detail drawings of proposed lighting fixtures.

Commissioner Lalwani echoed Commissioner Williams concerns about traffic congestion, and wondered whether the Santa Clara mosque congregation members were expected to attend the proposed mosque on Montague Expressway.

Regarding Condition #8 which reads:

All rooftop mounted equipment (HVAC, etc.) shall be screened from views by locating behind a parapet wall or placed in the roof well,

Chair Nitafan recommended that five feet be included in the special condition so that there are no misunderstandings with the applicant.

Mr. Fujimoto drew attention to Condition #5 which reads:

Prior to building permit issuance, the applicant shall submit to the Planning Subcommittee for approval revised Architectural Elevations which shall incorporate the following:

- a. Recessed windows throughout the project at a minimum of twelve (12) inches, to provide a more visually appealing structure.*
- b. Incorporate storm leaders from the roof into the exterior walls and not “attached” to the outside of the building.*
- c. Increase building parapet to as tall as the rooftop building equipment, which would be five (5) feet.*

Mr. Fujimoto replied that condition #5c explains that the building parapet should be as tall as the rooftop building equipment.

Mohammad Farooq Rydhan, President of Al-Hilal Islamic Charitable Foundation, San Jose, mentioned that he thinks the mosque would be a great addition to the City of Milpitas and appreciates all input from staff.

In regards to Commissioner Williams' question, Mr. Rydhan responded that the timing of services are religiously fixed and cannot be changed. This is due to the sunrise, the actual noontime, the afternoon time, the sunset, and the moontime throughout the calendar year.

In response to Commissioner Lalwani's question, Mr. Rydhan responded that the large mosque in Santa Clara is planning to add a second story, and San Jose will also be adding one, so no new members are anticipated to come to the proposed mosque on Montague Expressway.

In response to Commissioner Hay's question, Mr. Rydhan clarified that blue, green, white, and gold are the Islam's preferred color.

In response to Commissioner Galang's questions, Mr. Rydhan responded that the mosque is being built for Muslim services and that drinking alcohol and dancing are not part of the religion.

Commissioner Williams asked whether the architect plans on building other mosques with the same design and Mr. Rydhan responded that the mosque in Hayward has the same beautifully intricate ceramic tiles with Arabic inscriptions.

In response to Commissioner Hay's utilities question, Mr. Rydhan indicated that they would be underground.

Mr. Rydhan asked for clarification on Condition #4 which reads:

Within 30 days of Planning Commission approval, the applicant shall move the temporary trailer to the rear of the site, behind the abandoned warehouse.

Mr. Rydhan requested 60 days instead of 30 days, and to move the temporary trailer behind the proposed building.

Chair Nitafan opened the public hearing on Item No. 1.

Dave Richerson, 1920 Yosemite Drive, needed clarification on Condition #5c.

Increase building parapet to as tall as the rooftop building equipment, which would be five (5) feet.

City Attorney Kit Faubion replied that the height of the parapet must be as tall as the equipment height.

Ms. Heyden suggested revising Condition #5c to read:

Increase building parapet to as tall as the rooftop building equipment.

Following discussion, the Commissioners agreed.

Close Public Hearing

Motion to close the public hearing.

Item No. 1

M/S: Chua/Hay

AYES: 7

Commissioner Chua requested clarification on Condition #4 which is:

Within 30 days of Planning Commission approval, the applicant shall move the temporary trailer to the rear of the site, behind the abandoned warehouse.

Mr. Fujimoto responded that originally staff had proposed to move the temporary trailer to the rear of the warehouse building within 30 days, but the applicant feels that 30 days is not adequate and proposes 60 days instead due to the Ramadan holiday in December.

Following discussion condition #4 was changed to read:

Within 60 days of Planning Commission approval, the applicant shall move the temporary trailer to the rear of the site, behind the abandoned warehouse. The trailer shall be removed from the site prior to any issuance of any occupancy.

Commissioner Chua also wanted to add condition #15 to read:

Six months from issuance of a certificate of occupancy, this Use Permit No. 1554 shall be reviewed by the Planning Commission to evaluate the issues of parking supply and rush hour traffic conflicts.

Commissioner Hay revised Condition #6 to read:

Prior to building permit issuance, the applicant shall submit to the Planning Commission Subcommittee for approval of elevations and detail drawings of proposed lighting fixtures, fencing, and landscaping.

Motion to approve Use Permit No. 1554 “S”-Zone Application and EIA No. 747 with staff conditions, amendments to Condition Nos. 4, 5c, 6, and new condition No. 15 as stated above.

M/S: Chua/Lalwani

AYES: 7

2.

**“S” ZONE
AMENDMENT (P-
SA2001-74):**

*(Home Depot, 1177
Great Mall Drive).*

Troy Fujimoto, Assistant Planner, presented a request to construct a pallet enclosure at the southwest end of the property, exterior storage areas, and a wall to screen loading and storage at the north end of the property, and recommended approval based on the findings and special conditions in the staff report.

Commissioner Williams requested clarification regarding parallel parking along the driveway site of the building, and asked if there will be adequate clearance for the VTA buses that will be going through that area.

Mr. Fujimoto replied that there would be adequate room for the buses, since a physical barrier will be separating the buses from the Home Depot property.

Ms. Heyden drew the Commissioners' attention to the Home Depot drawings and explained the location of the barrier in greater detail.

Commissioner Galang asked if the parking proposal is for employees only.

Mr. Fujimoto responded that the parking is not specified for employees only, but it is expected that only employees will park there because of the location.

Regarding Engineering's Condition No. 3. which reads:

The applicant shall comply with the conditions of Planning Commission Resolution No. 168, a resolution of standard conditions for commercial development. (Items 7,8,10-12,15-E),

Commissioner Hay asked if Resolution No. 168 is a revised condition from the Home Depot development.

Mr. Fujimoto replied that it is the same Resolution, but only certain items apply.

Vice Chair Sandhu asked if the enclosures are roofed or open.

Mr. Fujimoto responded that the enclosures are not roofed.

Commissioner Galang questioned that if the enclosures will be opened, equipment will not be protected during the rainy season.

Mr. Fujimoto replied that the storage area would be used for customers picking up their items the same day and also for equipment that does not need to be sheltered from the rain. "S" Zone Amendment P-SA2001-74 does not allow for Home Depot to put a cover over the enclosure.

Commissioner Galang asked if there is special parking for customers picking up items.

Mr. Fujimoto replied that there is no specified pick-up place for customers.

Commissioner Hay asked how Home Depot would guarantee that pallets would not be piled up over the top of the enclosure.

Ms. Heyden mentioned that the task force would be continuously monitoring Home Depot to make sure they are meeting the conditions of approval.

Commissioner Hay suggested adding a new condition No. 4 that reads:

Pallets stored in the pallet enclosure shall not exceed the height of the enclosure walls.

Chair Nitafan stated concerns with condition No. 3 which reads:

Nighttime (7:00PM to 7:00AM) deliveries and unloading and loading shall be restricted to the south end of the building.

Ms. Heyden explained that the original use permit contains a condition regarding north-end delivery hours to address the adjacent residential area to the north.

Commissioner Chua felt that since the Planning Commission had addressed these concerns before, she had no problem with No. 3.

Bill Boyle, Home Depot Architect, mentioned how Home Depot wants to be the best store in the area, and proposes a wall that will help screen merchandise that gets uploaded for customer pick-up.

Commissioner Williams recalled that the original condition indicated that the landscaping would screen loading and unloading, and echoed Chair Nitafan's noise concerns.

Mr. Boyle replied that the trees are currently maintained properly, and the proposed wall would supplement the landscaping. Also, the wall would provide sound mitigation for neighboring apartments.

Chair Nitafan opened the public hearing on Item No. 2.

Mr. Richerson, 1920 Yosemite Drive, mentioned his concerns for parking spaces at the Great Mall relative to adding the new storage area, and how traffic is already congested during the holidays. He also mentioned that Home Depot and the City's task force has done a great job making sure Home Depot meets the conditions of approval.

Motion to close the public hearing.

**Close Public
Hearing**

M/S: Sandhu/Hay
AYES: 7

Item No. 2

Mr. Boyle responded to Mr. Richerson's comments to clarify that no changes are being proposed in the garden center area and that season sales were previously approved.

Commissioner Hay asked how many parking spaces were being displaced and staff responded "15".

Commissioner Williams commented that he hears noise from Home Depot in the early hours.

Chair Nitafan suggested a six-month review and Commissioner Chua and Commissioner Williams disagreed mentioning that it was the purpose of the City's Task Force to monitor Home Depot's conditions.

In response to Commissioner Lalwani, Mr. Fujimoto responded that some of the new Parc Metropolitan homes that are near Home Depot are occupied.

Commissioner Lalwani also asked if the person who wrote the comment letter against the proposed storage facility was in the audience and Mr. Fujimoto responded “No”.

Commissioner Hay echoed Commissioner Chua’s comments regarding the task force and also added that it is the task forces responsibility not only to monitor Home Depot but other concerns at the Great Mall.

Ms. Heyden commented that the task force liaisons (Ms. Heyden and Bill Weisgerber) and Home Depot’s architect Bill Boyle took the initiative to meet with representatives of Parc Metropolitan, and that they are in agreement with the wall. Noise was not raised as a concern, only aesthetics. Parc Metropolitan is pleased that the task force has been including them in the process.

Commissioner Hay praised the task force and Home Depot for working with neighbors to address concerns.

Motion to approve “S” Zone Amendment P-SA2001-74 with staff’s special conditions and new condition No. 4 as stated above.

M/S: Sandhu/Hay
AYES: 7

3.

**USE PERMIT
AMENDMENT (P-
UA2001-12) AND
“S”-ZONE
AMENDMENT (P-
SA2001-75):**

Troy Fujimoto, Assistant Planner, presented a request to modify the landscape plans for the rear of Home Depot as approved per the original Home Depot conditions of approval and recommended approval based on the findings and special conditions in the staff report.

Commissioner Hay referred to the drawings and asked whether there are underground utilities in the back of Home Depot.

*(Home Depot, 1177
Great Mall Drive).*

Commissioner Williams commented that the communication signals used by the railroad are usually above ground and that was what was probably in the photo staff took. Commissioner Hay asked if staff could look into what type of utility is underground and staff agreed.

Commissioner Chua mentioned that she is very pleased with Condition No. 7. And asked if the applicant is in agreement with it. Condition No. 7 is as follows:

Landscaping shall be permitted and installed by January 31, 2002. If not, a faithful performance deposit for the cost of the improvements shall be placed with the City until the work is completed to the satisfaction of the City.

Mr. Fujimoto mentioned that staff is making every attempt to work with the applicant to make sure that landscaping is completed by the end of January, however, if it is not, a deposit must be paid.

Commissioner Chua asked how much the deposit cost is and Mr. Fujimoto responded that it is still being worked out, but that is based on the value of the landscape improvements.

In response to Commissioner Galang's question, Mr. Fujimoto responded that the trees surrounding Home Depot are not at their mature height.

Tim Rydner, Swerdlow Real Estate Group, commented that he is very satisfied with the landscaping plan chosen and welcomes any questions the Commissioners may have.

Commissioner Chua asked if Home Depot will be able to complete the landscaping by January 31, 2002, but noted that Swerdlow reviewed the conditions and did not mention a problem.

Chair Nitafan opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

**Close Public
Hearing**

M/S: Hay/Galang
AYES: 7

Item No. 3

Motion to approve Use Permit Amendment P-UA2001-12 and “S”-Zone Amendment P-SA2001-75 as submitted with conditions.

M/S: Galang/Chua
AYES: 7

4.

**HOME
DEPOT/GREAT
MALL TASK FORCE
UPDATE REPORT:**

Tambri Heyden, Planning Manager, presented a report requested by the Planning Commissioners regarding the work and progress of the Home Depot/Great Mall task force, and mentioned that no action is required from the Commissioners.

*(Tambri Heyden,
Planning Manager)*

Commissioner Williams asked if the taskforce was responsible for nighttime noise.

Ms. Heyden responded “No – not directly”, however the task force is going to be in existence a little bit longer than originally thought given the upcoming night club application. The task force is trying to address the potential concerns of the Parc Metropolitan neighbors regarding this project as well.

Commissioner Hay asked if the exterior garage has been painted and Ms. Heyden replied “ No”.

Commissioner Hay expressed concerns about how cars exiting from the outer ring cannot view each other passing from the left side of the road, and other traffic problems.

Following discussion, Ms. Heyden mentioned that there are traffic improvements that will be installed very shortly, such as new speed humps that will partially help the problem.

IX.

There being no further business, the meeting was adjourned at 9:30 p.m. to the next regular meeting of December 12, 2001.

ADJOURNMENT

Respectfully Submitted,

TAMBRI HEYDEN
Planning Commission
Secretary

VERONICA RODRIGUEZ
Recording Secretary

**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION WORKSHOP MINUTES
November 28, 2001**

**I.
PLEDGE OF
ALLEGIANCE**

Chair NitaFan called the meeting to order at 6:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: NitaFan, Sandhu, Chua, Galang, Hay, Williams
Lalwani (arrived 10 minutes late into meeting)

Absent: None

Staff: Faubion, Heyden

III. PUBLIC FORUM

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, expressed concern with parking and handicapped parking obstructed with Christmas tree sales and wanted it agendized.

Ms. Heyden suggested that this is related to enforcement and staff will follow up.

Commissioner Hay recommended that staff give a report at the next Planning Commission meeting.

Motion to have staff present a report on this matter at the December 12, 2001 Planning Commission meeting.

M/S: Williams/Chua

AYES: 7

IV. HOUSING ELEMENT WORKSHOP *(Felix Reliford, Paul Peninger, and Barry Miller)*

Felix Reliford, Housing Manager, introduced **Paul Peninger and Barry Miller from Bay Area Economics** who gave a PowerPoint presentation on the Housing Element process and procedures for the future adoption of the Milpitas Housing Element.

In response to **Commissioner Galang's** question, Mr. Peninger responded that townhomes are between 12 and 15 units to the acre and stack flats are used in urban areas.

Following discussion, Mr. Peninger showed the visuals of Parc Metropolitan homes and pictures of multi-family homes.

Commissioner Williams asked if Bay Area Economics addresses traffic concerns and housing developer issues.

Mr. Peninger responded "Yes", and that structured parking is analyzed and will be consistent with the Midtown Specific Plan.

Attorney Kit Faubion, commented that the purpose of the Housing Element is to create opportunities and recognize and analyze housing concerns.

Mr. Reliford mentioned that the Housing Element would set the goals for the Midtown Plan while the Midtown Plan covers the design and layout issues.

Commissioner Chua expressed concerns about the 46% increase in households and asked how the consultants plan on calculating the amount of people.

Mr. Peninger responded that the census data is used to calculate the household population units.

V. ADJOURNMENT The meeting was adjourned at 7:00 p.m. to the regularly scheduled meeting of the November 28, 2001 Planning Commission meeting.

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

December 12, 2001

**I. PLEDGE OF
ALLEGIANCE**

Chair Nitafan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL

Present: Nitafan, Sandhu, Chua, Galang, Hay, Lalwani,
Williams

Absent: None

Staff: DeLeon, Faubion, Fujimoto, Guido, Heyden

III. PUBLIC FORUM

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

“Kitchens to go” thanked the Planning Commission and invited them to visit their business, which is now open.

**IV. APPROVAL OF
MINUTES** *November
28, 2001*

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of November 28, 2001.

Motion to approve the minutes of November 28, 2001 as submitted.

M/S: Sandhu/Lalwani

AYES: 7

**V.
ANNOUNCEMENTS**

Following up on a request from the Planning Commission, **Tambri Heyden, Planning Manager**, reported that Abel Plaza has now removed the lotto sign from the front sidewalk.

Ms. Heyden mentioned that a temporary certificate of occupancy would be issued to the Outback Steakhouse restaurant at the Great Mall, Friday December 14, 2001 to prepare for their grand opening.

Ms. Heyden also announced that there are three projects on tonight's agenda that have revised conditions of approval. The changes have been made as clearly as possible with strikeouts and underlining. The nightclub has numerous changes that have come about from review by all involved parties over the past 3 days.

Commissioner Galang requested that Ed Tuason, Parks and Recreation Commissioner be added to the Planning Commission agenda distribution list and wished everyone Merry Christmas and Happy New Year.

Commissioner Chua thanked staff, Commissioners, and City Council for all their hard work this year.

Commissioner Hay asked whether all City Commissioners are on the Planning Commission agenda distribution list.

Following discussion, Ms. Heyden indicated she was not sure, but would look into it.

VI. APPROVAL OF AGENDA

Chair Nitafan called for approval of the agenda.

There were no changes to the agenda.

Motion to approve the agenda.

M/S: Lalwani/Hay

AYES: 7

VII. CONSENT CALENDAR

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

There were no changes to the consent calendar.

Chair Nitafan opened the public hearing on Item No. 2 only.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Hay/Lalwani

AYES: 7

Motion to approve the consent calendar on Item Nos. 2, 4, and 5 as submitted with staff recommendation and special conditions as follows.

*** 2 USE PERMITS (P-UP2001-38 AND P-UP2001-39):** A request to operate a Farmer's Market (APN 28-13-015) in the Milpitas Town Center Shopping Center Front Parking Lot for a total of 12 months during 2002. Applicant: Pacific Coast Farmers' Market Association. Project Planner: Staci Pereira, 586-3278.

*** 4 SITE AND ARCHITECTURAL REVIEW AMENDMENT NO. P-SA2001-83:** Request for new accessory building to house irrigation pumping station at Summit Point Golf Course (APN 29-35-011, 015). Applicant: Summit Pointe Golf Course. Project Planner: Staci Pereira, 586-3278.

*** 5 2002 PLANNING COMMISSION MEETING SCHEDULE:** Review and approve 2002 Planning Commission Meeting Schedule. Planning Manager: Tambri Heyden, 586-3280.

M/S: Hay/Chua

AYES: 7

VIII. PUBLIC HEARING

Chair Nitafan opened the public hearing on Item No. 1.

1. S-ZONE NO. (P-SZ2001-13) AND EIA NO. 759: (985 Montague Expressway, WP Investments)

Frank Guido, Junior Planner, presented a request to build two, 2-story research and development office buildings totaling 80,000 square feet and approval of a Mitigated Negative Declaration (EIA No. 759), located at 985 Montague, the current site of the vacant Jones Chemical plant, at the northeast corner of Montague Expressway and Milpitas Boulevard. Mr. Guido noted staff's recommendation of approval based on the findings and special conditions in the staff report.

Commissioner Williams requested clarification of the landscaping proposed along the side elevation as viewed by the public from Milpitas Boulevard. He also asked about the lifespan of the fern pine trees, which would be covering the front glass wall.

Mr. Guido responded that the landscaping would be facing the interior side and the 30 foot trees will be planted and spaced according to the pattern of the wall and in front of the columns. These evergreens would range in height of about 30 feet.

Commissioner Williams wondered whether the old railroad spur bridge would be demolished and Mr. Guido responded that it would not since demolition would be restricted to the property only.

David Denton, WP Investments, reiterated Mr. Guido's comments and added that the drill track extends across Milpitas Boulevard and occurs past the property line. WP Investments does not have the authority to remove the bridge.

Commissioner Williams also asked about the traffic analysis impact report and wondered why the traffic data reflected a decrease during the mid-day and questioned the impact on U-turns from west to east.

Arlene DeLeon, City Traffic Engineer, confirmed that the U-turn location has been monitored and that there is no increase

in traffic during the noon-time hour.

Commissioner Williams questioned how such a low number came about when other areas are reporting traffic increases.

Following discussion, Ms. DeLeon mentioned that the Milpitas Boulevard and Montague Expressway signal is very flexible and can be modified during the morning, evening, and mid-day if there are problems.

Chair Nitafan referenced Mitigation Measure #13e which reads:

a) If chemicals are still detected in the new soil data after soil-removal remedial action(s), and they exceed previously detected concentrations, the following shall apply:

The HRA shall be updated to confirm whether a health risk associated with the higher chemical concentrations exists for industrial office buildings.

and asked whether the underground chemicals have been mitigated.

Mr. Guido explained that Mitigation Measure #13 has been included to cover future contamination discoveries.

Mr. Denton referenced the 70-acre Fleming Business Park Project that was approved by the Planning Commission several years ago, that stands next to the proposed location of 985 Montague Expressway. According to Mr. Denton, the location looked like a “decrepit bowling alley” and 3 ½ years later, the business park is 100% leased. There was always major concern with the Jones Chemical Plant and Mr. Denton is pleased to improve the corner of the proposed site. The building will contain 40% glass walls and will improve the location of the corner. Mr. Denton also mentioned how the City wanted the proposed site to have the same combination of trees from the building across the street and WP Investments

agreed. Mr. Denton thanked Mr. Guido for all his suggestions regarding the project.

In response to **Commissioner Lalwani's** questions, Mr. Denton replied that the name of the adjacent building is called Montague Technology Park and is occupied by Cisco Systems. There are currently not any traffic impacts because the buildings are empty due to the economy.

Commissioner Williams inquired about the fountain vs. mound on the various drawings and Mr. Denton responded that the proposed fountain would be installed with birch trees.

Commissioner Chua asked if the proposed fountain would be reflected to match the neighboring development and Mr. Denton responded "yes".

In response to **Vice-Chair Sandhu's** questions regarding building height, Mr. Denton responded that there are two, 2-story buildings proposed which are 40 feet at the entryway parapet. The steps leading down to the bottom of the building are 36 feet, and then another 32 feet.

Commissioner Galang inquired about the species of the trees shown in purple color on the elevation drawings. Mr. Denton replied that they are called Purple Leaf Plums and the other species are *Western Cottonwoods*, and they do not remain the same color during the Winter.

Chair Nitafan opened the public hearing on Item No. 1.

**Close Public
Hearing** Item No. 1

Motion to close the public hearing.

M/S: Chua/Hay

AYES: 7

Commissioner Chua commended Mr. Guido on his report and presentation.

Motion to certify EIA No. 759.

M/S: Chua/Sandhu

AYES: 7

Motion to approve S-Zone No. P-SZ2001-13 subject to all staff-recommended conditions of approval.

M/S: Williams/Chua

AYES: 7

Commissioner Hay mentioned how he is impressed with the design for the Montague Expressway corner and it is going to be a welcome addition for the City.

Ms. Heyden thanked Mr. Denton for cooperating with staff's numerous suggestions and with complying with the new Streetscape Master Plan and Midtown Plan, even though the latter has not been adopted yet.

Commissioner Chua also thanked Mr. Denton for a great project and having the confidence to continue building in the City.

**2. USE PERMIT NO. (P-UP2001-35)
AND S-ZONE
AMENDMENT (NO. P-SA2001-73):**
*(1100 Great Mall
Drive, Big Sky
Entertainment II)*

Troy Fujimoto, Assistant Planner, presented a request to construct a 16,000-square foot nightclub within the Great Mall of the Bay Area, with food service and full service bars serving all types of alcohol to be open from 5:00PM to 6:00AM, and recommended approval based on the findings and special conditions in the staff report.

Commissioner Chua wanted to know the rationale of not having a traffic barrier closer to Dave and Busters.

Mr. Fujimoto responded that the rationale is to have more patrons exit towards the southern area than the residential areas.

Commissioner Chua asked about signs informing motorists that the area is closed and Mr. Fujimoto responded that the referenced conditions of approval require six signs be placed.

Commissioner Chua inquired about the process for installing barriers on the inner and outer ring road at 1 a.m.

Mr. Fujimoto responded that the applicant could choose to manually control the gates, have electronic gates or swinging gates installed. In addition, staff recommends that security personnel patrol throughout the area.

Commissioner Chua inquired about the hours of operation and asked if the Limelight nightclub in Mountain View closes at 6 a.m.

Mr. Fujimoto responded that the Mountain View nightclub closes at 2 a.m.

Commissioner Galang asked if there are any nightclubs in Milpitas and Mr. Fujimoto responded “no”.

In response to Commissioner Galang’s question regarding existing space, Mr. Fujimoto responded that the current site is

vacant.

Commissioner Galang asked about lunchtime hours, special events, and the difference between security personnel and employees.

Mr. Fujimoto responded that periodic special events during the lunch hour are requested and security personnel would be trained on safety and security issues. The applicant could provide more detailed information.

In response to Commissioner Lalwani's questions regarding serving alcohol and the panic button system, Mr. Fujimoto responded that ABC (Alcohol Beverage Control) does not allow alcohol to be served after 2 a.m., and that there would be a glass covering for the panic button that would emit noise.

Commissioner Hay asked why staff deleted the double door requirement.

Mr. Fujimoto responded that the applicant has already proposed a sound material wall for exterior and interior seating that would absorb noises.

Commissioner Hay commented that from his experience double doors work and asked if staff has any proof that the sound wall could work as well.

Mr. Fujimoto commented that staff recommends that a noise study be conducted to figure out how the wall will mitigate the amount of noise and any impacts.

Commander Jim Berg, Milpitas Police, expressed his confidence that the Police will be able to address any concerns the establishment proposes to the City, and how he is pleased with the cooperation of management.

Commissioner Hay asked if the proposed establishment would

attract any gang activity as may be occurring at other club locations. Commander Berg responded that because of the gang speculation, staff requires gang recognition training be included as one of the special conditions.

Vice Chair Sandhu asked the difference between Dave and Busters and the proposed nightclub.

Mr. Fujimoto responded that Dave and Busters has billiards, bars, arcades, and restaurants, but does not have dancing and live entertainment.

Vice Chair Sandhu inquired about the nightclub's proposed location.

Mr. Fujimoto drew the Commissioners' attention to the drawings and pointed to the vacant lot and commented that the Dave and Busters and the proposed nightclub are in close proximity to each other.

Vice Chair Sandhu also inquired about the portability of the traffic barriers and Mr. Fujimoto commented that the option was left open to the applicant. The applicant could have portable or permanent barriers, but the goal is not to allow cars to go through the inner and outer ring road during late hours. Also, the entry to the nightclub will be from the outside and not through the Mall.

Commissioner Williams referenced page 10 of the staff report that reads as follows:

There is the chance that when any doors are opened to the club, music may escape from the nightclub.

Commissioner Williams asked how could it be prevented for a customer (smoking a cigarette outside) to prop open the door and hear the music.

Mr. Fujimoto responded that the expectation would be for security personnel to monitor the doorway.

Commissioner Chua needed clarification on Special Condition No. 18 that reads:

Six-month Review - Within 6 months from occupancy, this Use Permit No. P-UP2001-35 shall be reviewed by the Planning Commission in order to verify compliance with the special conditions of approval and address any issues regarding noise, waste handling, and outdoor seating. The Commission may impose additional special conditions, if necessary, to address such issues. The applicant shall submit all necessary public hearing notification materials and fees. (P)

Kit Faubion, City Attorney, responded that the way the condition is stated is that the Planning Commission would have the ability to add or revise any conditions, as they arise.

In response to Commissioner Lalwani's question regarding access, Mr. Fujimoto responded that there is no inside entry from the mall but only the emergency exit that goes towards the mall.

Commissioner Williams questioned why the Limelight has already been listed under the Great Mall directory.

Commissioner Hay mentioned his concerns about the barriers being located on the west side and thought it would be better to move the barriers to the east side to reduce traffic and noise in the parking lot.

In response to Vice Chair Sandhu, Mr. Fujimoto responded that six fixed signs would be placed; four would be placed on the front and back of the barriers and two permanently located on the northeast parking lot.

Chair Nitafan referenced Condition No. 7 which reads:

Restriction of Operating Hours - If the Planning Manager determines that the applicant has violated any special condition contained herein, the project will automatically be required to change its hours of operation of 4:00PM to 6:00AM to 4:00PM to 2:00AM. Following such determination, the applicant may request an evidentiary hearing, before the Planning Commission, on whether the hours of operation must be changed to protect the public health, safety and welfare.
(P)

Chair Nitafan asked why the hours of operation were removed from the six-month review.

Mr. Fujimoto pointed out that it is covered in other conditions and unlike a six-month review, there is no time limit for Condition No. 7. The restriction of hours can be imposed anytime.

Ray Johnson, Applicant and Vice President of Big Sky Entertainment II, explained his professional background and how nightclubs have changed over the years and offered a new condition to require the club to sweep the parking lot. He also suggested moving the barriers to the east and using cones as well as their own security personnel to patrol for noise problems.

Vice Chair Sandhu asked what the four-theme dance rooms were and if the nightclub plans on having different languages and music.

Mr. Johnson pointed out the four areas on the floor plans and explained that each night the music will change to stay competitive.

Commissioner Hay asked what the relationship is between music and crowd problems.

Mr. Johnson replied that gang problems have been addressed

at the Mountain View nightclub through security and this has discouraged certain crowds from returning. Mr. Johnson also explained his cones and security personnel idea, which would be an alternative to gates.

Commissioner Hay commented that he liked the idea.

In response to Commissioner Lalwani's question regarding age restrictions, Mr. Johnson commented that the age limit is 21 and over, but on certain nights the club will host to 18 and over. Part of the facility will be closed to limit alcohol to those under 21 years of age. This is to attract different markets to come to the nightclub.

Commissioner Galang inquired about the hours of operation and asked why the nightclub proposes to close at 6 a.m. when nightclubs typically close at 2 a.m.

Mr. Johnson pointed out the floor plans again and mentioned that there will be a "chill room" with soft music and that the restaurant area will be open as well. Mr. Johnson mentioned how customers are not ready to stop partying at 2:00 a.m. because they are energized and that the only thing that gets rid of alcohol is time.

Commissioner Galang asked if the nightclub would be providing taxi service and Mr. Johnson insured that security personnel will make sure that everyone gets a ride home.

In response to Commissioner Galang's question, Mr. Johnson replied that in Mountain View, there are about 15 staff members depending on the night and how many people are expected. Their security rule is 1 guard per every 75 to 100 people and the Limelight exceeds that expectation significantly so that people feel safe.

Commissioner Galang inquired about the dress code and mall exit.

Mr. Johnson replied that the dress code varies upon the age and night and that there is no exit directly to the mall.

Commissioner Chua asked for clarification on the barriers and if the nightclub staff would be manning them.

Mr. Johnson mentioned how the barriers will force the customers to drive towards the inner ring road, which would prevent traffic, and that there will be fixed signs on the barriers.

Commissioner Chua mentioned her concerns about the barriers in case of an emergency and asked how they would be removed.

Mr. Johnson replied that portable construction barriers would be removed.

Commissioner Williams commended the applicant on his security plan and reasked his question regarding the deletion of the double doors.

Mr. Johnson replied that security guards will be stationed at the emergency exits in the patio area, and will make sure that the doors remain closed at all times. Mr. Johnson also mentioned that the double doors are a significant cost and most people shouldn't be able to hear any music in their homes. If eventually double doors are required, then they will be purchased.

Vice Chair Sandhu asked if the security guards are armed and Mr. Johnson replied "no" due to liability issues.

Looking at the plans, Commissioner Hay commented about the secondary entrance on the northern side of the project and Mr. Johnson replied that it is an emergency exit.

Chair Nitafan opened the public hearing on Item No. 2.

Xiahui Bi, 879 Celebration Drive, wanted to know if the location for the club could be switched to the south side of the Mall. She also expressed concern about delay in security responding to noise problems immediately and wanted to know the hours of security.

Commissioner Hay requested all speakers to point out on the map where they live when they address the Planning Commission.

Feng Wu, 896 Meditation Place, is frustrated that he can't leave his windows open due to noise and is afraid to report problems. He is also concerned about the City's future image when there are club problems.

Alex Hu, 892 Towne Drive, mentioned how he has witnessed three to four fights a week in the parking lot that haven't been addressed. He believes the club comes with a high social cost that can be alleviated, but not eliminated and doesn't believe another nightclub use is needed because it wastes Police resources and impacts nearby prices of homes. Mr. Hu is concerned that promises will not be kept and doesn't want to take this risk.

Teresa Allerd, 898 Contemplation Place, mentioned her concerns that the nightclub would increase liability for the Parc Metropolitan Association. Ms. Allerd is also concerned about where gangs will go when the club turns them away and feels there would be increased trash in their community. She asked about crime statistics of other clubs and stated that she would get no sleep on the weekends due to club noise.

Eric Aleras, 893 Towne Drive, discussed acoustics. Mr. Aleras stated that he has acoustics experience and that what is proposed will not mitigate the noise problem. He is concerned with patrons returning to their cars at 2 a.m. and drinking in their cars and then going back into the club. Mr. Aleras felt

portable barriers would be a problem because they will be moved by patrons.

Karen Theriot, 893 Towne Drive, gave incidents where she observed car stereo noise, drug deals and speeding cars in the parking lot. She feels that the club will worsen these problems at the expense of her family and the community.

Ann Mag, Firewalk resident, mentioned her concerns about enforcement of regulations once the project is approved and doesn't feel barriers would help. Ms. Mag mentioned how Police can't get to noise problems before they start because residents would already have been disturbed.

Lou Faria, owner of 842 and 852 Towne Drive and 861 Spirit Walk, mentioned how he didn't get the public notices this time and can't get an answer in regards to occupancy rate of the club. He thinks that since there will be no cover charge after 3 a.m., this would bring in new customers between 3 a.m. and 6 a.m. He also mentioned how barriers are unsatisfactory because they are portable. Mr. Faria is also concerned with the hand stamping not being required after 2 a.m. and doesn't think the number of personnel works financially. He has been affected by one of his tenants leaving due to noise and feels that this is not the proper location for a nightclub.

Adrian Davis, 855 Spirit Walk, thinks that barriers will not stop noise in the parking lot from 9 p.m. to 3 a.m. and feels only closing Comet Drive will solve the problems. Mr. Davis suggests 6 months of good operations before allowing extended hours and says that nothing is being done now and wants to know what the City plans on doing.

Fred Reams, 899 Contemplation Place, mentioned how he taped the parking lot from 10 p.m. to 4 a.m. last Friday, December 7, 2001 to Tuesday, December 11, 2001, and questioned why the City approved the entertainment zone after homes were approved. He mentioned how the kinds of

cars change after midnight that they are “souped –up” and louder than the average cars and says the general plan addresses sensitive uses but this proposal doesn’t.

Jason Ellerton, 321 Celebration Drive, questions what activities and elements will occur between 2 a.m. and 6 a.m. and says as a resident, he doesn’t gain any advantage to club approval. He observes from his balcony noise problems every night and strongly objects to this project.

Dave Richerson, 1920 Yosemite Drive, feels that existing conditions are a problem without this nightclub and asked if the mall police substations would be manned after 2 a.m. Mr. Richerson also disputes the applicant’s decibel information of 80 to 85 and feels that double doors should be used and doesn’t see any condition of approval regarding decibel level. Mr. Richerson feels that the existing problem needs to be resolved regardless of whether the club is approved.

Fred Reams showed the videotape he had made of the parking lot activities.

**Close Public
Hearing** Item No. 2

Motion to close the public hearing.

M/S: Hay/Chua

AYES: 7

RECESS

Chair Nitafan called for a recess at 10:05 p.m.

Chair Nitafan asked Mr. Johnson to address the issues raised by the residents.

Mr. Johnson mentioned that the intentions of the Limelight are to address safety concerns in the parking lot. The Limelight club in Mountain View has not had a single sound citation, and residents are much closer to the facility than the Parc Metropolitan residents. There has never been any stabbings, shootings, prostitution or gang fights.

Chair Nitafan asked Mr. Johnson to address the hours of operation issues and noise concerns.

Mr. Johnson replied that the nightclub plans on staying open until 6 a.m. on the weekends, not every night and mentioned that the Great Mall is an urban area. Management is willing to work with people to get solutions.

Chair Nitafan asked **Dan Cetina, Manager of the Great Mall**, to address the concerns of the Park Metropolitan residents.

Mr. Cetina mentioned that there is security available between 11 a.m. and 6 a.m. and security at the Great Mall runs 24 hours a day, 7 days a week. He also mentioned that the neighbors' concerns of people screaming in the parking lot is unacceptable and needs to be addressed.

Mr. Cetina also said that by living at the mall or an airport, there are degrees of tolerances that have to be dealt with. Parc Metropolitan has only filed one formal complaint about employees loitering in the Dave and Busters parking lot. Great Mall was very proactive by talking to police and management and making sure the issues were addressed.

He is concerned with residents' issues, and feels that the Milpitas Police Department has done a good job mitigating this.

For example, on a recent holiday shopping day, there were between 75,000 to 100,000 people out, and of all those people, there was only 1 shoplifting incident.

Chair Nitaфан asked Mr. Cetina how he felt about the barrier issues.

Mr. Cetina mentioned how the Great Mall was not in agreement on how the barriers should be placed because if it is a permanent barrier, then a car would have to stop and make a U-turn which would make more noise.

Chair Nitaфан also asked why this particular location (next to Dave and Busters) was chosen.

Mr. Cetina responded that the reason the location was chosen was to have more patrons choose which entertainment section they would like to go to. Also, there is no other room at the Great Mall.

Chair Nitaфан asked Mr. Johnson to reply to the neighbors' concerns about prostitution.

Mr. Johnson replied that the Limelight club has never had any prostitution issues and that no one has ever been arrested or convicted. Prostitution would jeopardize their liquor license. The nightclub does not make money on prostitution, but makes money on people returning to the club.

Chair Nitaфан also asked Mr. Johnson to elaborate on operation of hours.

Mr. Johnson mentioned how drinking will not be allowed outside of the club and there will be no in and out privileges after 1:30 a.m. There are guards in the parking lot.

Chair Nitaфан asked Commander Jim Berg to address the neighbors' concerns.

Mr. Berg responded that he is currently working with Mountain View police to trace any club disturbances such as frequency of crimes and noise.

Commissioner Hay asked if the nightclub would allow patrons after 2 a.m.

Mr. Johnson replied “yes” and that no patrons would be turned away. Customers inside the building after 1:30 a.m. would not be able to leave and then come back in.

Mr. Richerson expressed his anger about the revised special conditions that he read during the break that the neighbors were not even aware of. His concerns were of conditions being deleted such as security cameras in the parking lot and the parking garage. He feels that this is a violation of public notification and would even take this to the City Council.

Ms. Heyden responded that the reason the special condition was deleted was because security cameras already exist in the parking lot and the parking garage.

Kit Faubion, City Attorney, commented that Ms. Heyden had advised the Planning Commission at the beginning of the meeting and it is up to the Commission if they want to open the public hearing on the revised special conditions.

Commissioner Hay expressed his concern on how some of the residents did not receive public notification on the nightclub issue.

Mr. Fujimoto replied that notices were sent to property owners that were from the Community Care Association List and the County Assessors Office. Both of those lists were cross-referenced and notices were sent out.

Commissioner Lalwani mentioned how the City doesn't need

nightlife to cheer us up and sympathizes with the residents. The nightclub would be better off at another location besides the Great Mall and would like to make a motion to deny.

Ms. Faubion asked the Commissioners to provide more clarification as to why the motion is being denied.

Commissioner Chua mentioned her disappointment as to why the task force has not been mentioned in regards to noise and traffic situations.

Ms. Heyden mentioned that at her last meeting with the Parc Metropolitan Board of Directors in November, the purpose of the meeting was to inform them of the Home Depot screen wall plans and to also inform them of the nightclub application. Staff has also made other efforts to deal with the existing problems that have not been resolved. She also mentioned that due to the timeframe between submittal and the Planning Commission hearing, there was limited time to address all the issues that were raised. The task force forum was used to develop the barrier solution to address noise that may occur with the new use only.

Commissioner Chua asked Ms. DeLeon to comment on the barrier solution.

Ms. DeLeon mentioned that the reason the locations were chosen was to have traffic flow in a southern direction. Ms. DeLeon noted that there could be more than one solution and that staff would work with the mall to decide on what is the best option.

Commissioner Hay mentioned how he has been a supporter of the entertainment concept of Milpitas for citizens, but feels that we have to take into consideration the impacts of neighbors. He feels that we have to first deal with the current issues before adding yet another problem.

Vice Chair Sandhu agrees with Commissioner Chua on the task

force issues, but sympathizes with all the residents. He also said that the Great Mall is a commercial project, but is not comfortable with the idea of a nightclub.

Commissioner Galang mentioned his concerns about neighborhood noise and traffic and felt that the nightclub would be better off at a different location.

Chair Nitafan also felt that the nightclub project is great, but has location concerns. He also doesn't like the idea of putting more restrictions on traffic with the proposed barriers.

Upon request of the Planning Commissioners, Ms. Faubion explained that the applicant could resubmit at any time without the one-year restriction, which would be the case if it was denial without prejudice.

Commissioner Lalwani felt that it would be a good idea for the applicant to work with the residents. Commissioner Hay and Vice Chair Sandhu agreed.

Motion to deny Use Permit No. (P-UP2001-35) and S-Zone Amendment No. (P-SA2001-73) without prejudice.

M/S: Lalwani/Sandhu

AYES: 6

NOES: 1 (Commissioner Williams opposed and had no comments)

**3. SEASONAL
SALES REPORT:**
*(Tambri Heyden,
Planning Manager)*

Tambri Heyden, Planning Manager presented an informational report on the City's review process for the display of seasonal merchandise in parking lots and mentioned that no action is required by the Planning Commissioners.

Mr. Richerson stated that at the last meeting, he referenced Target as a good example of displaying seasonal sales and Albertsons as the problem, but that the problem was resolved.

There were no comments from the Planning Commissioners.

IX. ADJOURNMENT There being no further business, the meeting was adjourned at 11:30 p.m. to the next regular meeting of January 9, 2002.

Respectfully Submitted,

TAMBRI HEYDEN
Planning Commission
Secretary

VERONICA RODRIGUEZ
Recording Secretary